

UNITED STATES BANKRUPTCY COURT

FOR THE DISTRICT OF PENNSYLVANIA

IN RE: :  
: Case No. 23-10764  
: 23-10763  
STREAM TV NETWORKS, INC. CH: 11 :  
: Philadelphia, Pennsylvania  
A) Emergency Motion For Entry Of : April 14, 2023  
An Order Enforcing The Automatic : 12:42 p.m.  
Stay And For Sanctions For :  
Willful Stay Violation Filed By :  
Stream Tv Networks, Inc. :  
Represented By Rafael X. :  
Zahralddin :  
:  
. . . . .

BEFORE THE HONORABLE MAGDELINE D. COLEMAN  
UNITED STATES BANKRUPTCY JUDGE

APPEARANCES:

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APRIL 14, 2023

THE COURT: All right. So this is the matter of Stream TV Networks and Technovative Media, Inc. There are two matters presently scheduled before the Court today. One is the Debtor's emergency motion for issuing an order enforcing the stay for other turnover and sanctions. And there is an emergency motion to dismiss the Hawk Investment Holdings, to dismiss this debt as paid or convert, or in the alternative, to appoint a Chapter 11 Trustee.

So let's start first with entering appearance for the attorneys who are going to participate in the two matters. Let's start first with the attorneys who are going to participate in the Debtor's motion with respect to the stay and turnover. Counsel for the Debtor?

MR. ALEXANDER: Good morning, Your Honor. Or good afternoon, now. Vincent Alexander, A-L-E-X-A-N-D-E-R. And also Rafael Zahralddin, it's Z-A-H-R-A-L-D-D-I-N, of Lewis Brisbois Bisgaard & Smith on behalf of the Debtors. And that's the counsels who will be speaking today.

THE COURT: Okay. Counsel for any Respondent?

MR. MAZZA: Good afternoon, Your Honor. This is Jim Mazza, M-A-Z-Z-A, from Skadden Arps. I represent SeeCubic.

THE COURT: Okay. Is there anyone else who is participating in the argument?

MR. LARKIN: Good afternoon, Your Honor --

1 THE COURT: Hello?

2 MR. LARKIN: Good afternoon, Your Honor. This is Joe  
3 Larkin, also from Skadden Arps. My partner, Mr. Mazza, will be  
4 handling the argument for SeeCubic. I just wanted to let Your  
5 Honor know that Mr. Mazza's pro hac motion was filed, and it's  
6 at docket 108 through 112.

7 THE COURT: And when was that filed, counsel?

8 MR. LARKIN: Your Honor, it was filed yesterday.

9 THE COURT: Oh, okay. And do you think I need --  
10 well, I'll figure it out. Not where I want to be. Okay. I  
11 want to be there. Okay. So it was filed at 108 through 112,  
12 you said?

13 MR. LARKIN: That's correct. Mr. Mazza --

14 THE COURT: I see --

15 MR. LARKIN: Mr. Mazza --

16 THE COURT: I see a motion -- uh-huh?

17 MR. LARKIN: Mr. Mazza's pro hac motion is at docket  
18 112, Your Honor.

19 THE COURT: Okay. So you filed several pro hac  
20 motions yesterday, starting at 108 through 112. And Mr.  
21 Mazza's is actually number 112; is that correct?

22 MR. LARKIN: That's correct, Your Honor. That's  
23 correct. Correct.

24 THE COURT: All right. And counsel, do you believe I  
25 need to enter an order before Mr. Mazza leads the arguments

1 today?

2 MR. LARKIN: I do not, Your Honor. I was just  
3 letting you know that we filed it.

4 THE COURT: Okay. Okay. Well, let me get the  
5 appearance of everyone else and see if anybody else thinks to  
6 the contrary.

7 Who else is here with respect to the motion  
8 for -- all the Debtor's motion speaking of order for violation  
9 of the stay and turnover?

10 MR. CALLAHAN: Your Honor, Kevin Callahan and John  
11 Schanne on behalf of the United States Trustees.

12 THE COURT: Okay.

13 MR. CALLAHAN: We're actually here on both matters.

14 THE COURT: Okay. Trustee. Anyone else? Okay. And  
15 does anybody take any position with respect to whether I need  
16 to sign those pro hac -- Mr. Mazza's motion to appear pro hac  
17 vice before he can appear?

18 MR. ROTHMAN: Your Honor, I apologize. I was  
19 expecting one of my partners to speak up. This is Aaron  
20 Rothman at K&L Gates on behalf of Hawk. My partner Steve  
21 Caponi is on the line as well.

22 THE COURT: Okay. I'm sorry, could you state your  
23 name again for the record, sir?

24 MR. ROTHMAN: Aaron -- sorry. Sorry, Your Honor.  
25 Aaron Rothman, R-O-T-H-M-A-N.

1 THE COURT: And who do you represent? Hawk?

2 MR. ROTHMAN: Hawk. Yep. And my partner Mr. Caponi  
3 is on --

4 THE COURT: And who else is with you?

5 MR. ROTHMAN: Steve Caponi and Margaret Westbrook.

6 THE COURT: Okay. Anyone else here on any of these  
7 matters?

8 We have 35 people, so there are other people just  
9 observing?

10 MR. ALEXANDER: Your Honor, this is Vincent  
11 Alexander. Would you like us to name all counsel even if  
12 they're not going to be speaking today?

13 THE COURT: You know what? I think since we're not  
14 in court, it probably makes sense. And I will just note that  
15 these are the attorneys who will be arguing with respect to the  
16 motions. And then, I'm going to put present. And then you  
17 could -- people could tell me who else is present. I mean, in  
18 open court, you typically don't do it. But it was just because  
19 we're on the telephone, it would be good to know exactly who's  
20 here.

21 MR. ALEXANDER: Your Honor, on behalf of the Debtor,  
22 we also have Bennett Fisher, F-I-S-H-E-R.

23 THE COURT: And he is?

24 MR. ALEXANDER: He's counsel at Lewis Brisbois.

25 THE COURT: Counsel, okay. Okay. Who else? Anyone

1 else?

2 MR. ALEXANDER: Rafael, do we have any other  
3 attorneys? Do we have any other attorneys on?

4 MR. ZAHRALDDIN: Yes, Your Honor. I believe Karen  
5 Poppel is also on the line. She's an associate with us here at  
6 Lewis Brisbois Bisgaard & Smith. And it's P-O-P-P-E-L, Karen  
7 Poppel.

8 THE COURT: Okay. For the Debtor.

9 MR. ZAHRALDDIN: I believe that's it for the Debtors,  
10 Your Honor.

11 MR. ALEXANDER: For the counsel, at least.

12 THE COURT: Okay. Anyone else?

13 MR. ALEXANDER: Your Honor, we also have  
14 representatives of the Debtor on.

15 THE COURT: Wait a minute. Let's --

16 MR. ALEXANDER: Would you like them, as well?

17 THE COURT: Yes.

18 MR. ALEXANDER: We have Mathu Rajan, it's R-A-J-A-N.  
19 He's the CEO of the Debtors.

20 THE COURT: Okay. Anybody else representing the  
21 Debtor? Is there counsel and --

22 MR. ZAHRALDDIN: Yes, Your Honor.

23 MR. ALEXANDER: We do.

24 MR. ZAHRALDDIN: Dan --

25 MR. ALEXANDER: Dan --

1 MR. ZAHRALDDIN: Dan Rink is also in-house counsel  
2 for the Debtor. He is on the line. And that's R-I-N-K. And  
3 Mr. Bud Robertson, also an employee of the Debtor, is on the  
4 line. And I believe -- I don't recognize this name, so I'll  
5 have to confirm. But someone identified themselves as Sarah  
6 Brewer (phonetic), perhaps, and indicated that they were an  
7 employee of the Debtor. But they can confirm their status.

8 MS. BREWER: Yes, that's correct.

9 MR. ZAHRALDDIN: Okay.

10 THE COURT: Apparently, I was disconnected. So where  
11 I stopped at was I was asking was there anyone other than Mr.  
12 Mazza and Mr. Larkin here for SeeCubic?

13 MR. ZAHRALDDIN: Okay. And Your Honor, I think  
14 we -- did you hear us provide the names of the employees and  
15 representatives from the Debtor that were here? Or were you  
16 off the line?

17 THE COURT: Yes.

18 MR. ZAHRALDDIN: Okay.

19 THE COURT: No, I heard Mr. Fisher and Ms. Poppel and  
20 Mr. Rajan. Hello?

21 Counsel, I also didn't give my typical instructions,  
22 which are could you please keep your telephone on mute until  
23 you speak, and that when you do speak, that you first state  
24 your name for the record. I would ask that you not interrupt  
25 anyone. And everyone will get an opportunity to speak. And I



1 would also ask that you keep your telephone on mute until you  
2 do speak.

3 Okay. So I did hear the representatives of the  
4 Debtor. And I was asking were there anyone else other than Mr.  
5 Mazza and Mr. Larkin for SeeCubic?

6 MS. BRUMME: Yes, Your Honor. This is Marley Ann  
7 Brumme, B-R-U-M-M-E. And also with me is Eben Colby.

8 THE COURT: And your relationship to SeeCubic?

9 MS. BRUMME: We are both -- yes, we are both counsel  
10 at Skadden.

11 THE COURT: Okay. Anyone else here? Okay. Mr.  
12 Callahan, I'm assuming it's just you and Mr. Schanne, and  
13 there's no one else for Hawk except Mr. Rothman, Caponi, and  
14 Ms. Westbrook. Anyone else? Hello? Oh, come on.

15 MR. ALEXANDER: We can hear you, Your Honor.

16 MR. MAZZA: We hear you, Your Honor.

17 THE COURT: Oh, good. I'm like, come on, don't tell  
18 me I'm going to just keep getting disconnected.

19 All right. So there's no one else for anyone  
20 appearing who has not been named in connection with these two  
21 matters?

22 MR. ALEXANDER: Your Honor, there's two more.

23 MR. RILEY: Judge, Leo Riley, an employee of  
24 SeeCubic, Inc.

25 THE COURT: I'm sorry, who else?

1 MR. RILEY: Leo Riley, an employee of SeeCubic, Inc.  
2 THE COURT: Okay. Anyone else?  
3 MR. MAZZA: Yes, Your Honor.  
4 MR. ALEXANDER: There's also two employees of the  
5 Debtor.  
6 THE COURT: Okay. Wait a minute.  
7 MR. ALEXANDER: Suby Joseph.  
8 THE COURT: For the Debtor?  
9 MR. ALEXANDER: Yeah. Two more employees, Your  
10 Honor. I apologize. Suby Joseph. It's S-U-B-Y, J-O-S-E-P-H.  
11 And Amanda Gonzalez, A-M-A-N-D-A, G-O-N-Z-A-L-E-Z.  
12 THE COURT: Okay. Anyone else? Anyone else?  
13 Because I heard -- the last I heard other than -- was for --  
14 MR. DEMARCO: Yes, Your Honor. I apologize. I've  
15 been trying to wait my turn to introduce myself. My name is  
16 Andrew DeMarco. I am counsel for Creditor Rembrandt 3D.  
17 That's D-E-M-A-R-C-O. I also have with me a fact witness,  
18 Chris Michaelson (phonetic), the president and CEO, Steven  
19 Blumenthal (phonetic), and the in-house counsel Neil Wallace  
20 (phonetic), for Rembrandt. They are also on the line.  
21 THE COURT: Am I the only one who's getting  
22 disconnected, John?  
23 COURT REPORTER: Yes, apparently.  
24 THE COURT: Apparently. So now I have computer  
25 issues and phone issues today. Great. If we get disconnected

1 again, I'm going to try to move to a different office and see  
2 if the works. Hopefully, I won't get disconnected again.

3 Okay. I think where we left off was that we had the  
4 appearance of all counsel and all persons who are present in  
5 connection with the two matters.

6 Okay. And so the first -- I think, have the parties  
7 discussed exactly what it is or how they would like to proceed  
8 today? I know there have been numerous telephone calls to my  
9 JA and my courtroom deputy regarding amending orders or  
10 whatever it is the parties were looking for. So let me lay  
11 this out before I have any questions.

12 Typically, on an emergency motion, I'm going to hear  
13 arguments, but I am not going to take evidence. I typically  
14 will hear the arguments and come to some sort of -- figure out  
15 where there are -- what the actual disputes are. And then, if  
16 we need an evidentiary hearing, then I schedule the evidentiary  
17 hearing.

18 So I'm not sure if the parties were unclear whether  
19 there was going to be an evidentiary hearing today. That is  
20 not going to happen. Because clearly, I would need more than  
21 this afternoon to hear evidence in connection with just one of  
22 these motions.

23 So with respect to the motion for relief, we can  
24 start with that and then we can have some discussion and figure  
25 out exactly where we're going with respect to, one, whether we

1 need an evidentiary hearing. Based on my review of those  
2 pleadings, I am going to assume that we do. And two, what were  
3 the parties expecting in terms of getting that evidentiary  
4 hearing. Okay. We're going to start with the motion for the  
5 alleged violation of the stay and for turnover.

6 Counsel for Debtor?

7 MR. ALEXANDER: Good afternoon again, Your Honor.  
8 Vincent Alexander on behalf of the Debtors.

9 THE COURT: Okay.

10 MR. ALEXANDER: Your Honor, may I proceed?

11 THE COURT: Yes, you may.

12 MR. ALEXANDER: Thank you, Your Honor. The Debtors  
13 filed these cases on March 15th. So we haven't even been in  
14 these cases a full month yet. And immediately upon the filing  
15 of these cases, the Debtors were met with resistance from  
16 various parties, including Hawk Investment Holdings, SLS  
17 Holdings, SeeCubic, Inc., and various of their representatives,  
18 including Shad Stastney, regarding the Debtors' ability to  
19 regain possession of their property of the estate and also  
20 operate in these bankruptcy cases.

21 And so we filed an emergency motion for violations of  
22 the automatic stay. Initially, with regards to one specific  
23 piece of estate property, and that's an optical bonding  
24 machine. Before I get into that, though, I think it makes  
25 sense, Your Honor, since you really haven't had a full hearing,

1 to kind of tell you what the Debtor does so you can see why  
2 this bonding equipment is important to the Debtor's operations.

3 Stream was founded in -- would that be helpful to  
4 Your Honor?

5 THE COURT: Yes. And counsel, it would also be  
6 helpful if you'd give me some background because we have been  
7 trying to, you know, based on the charts and the various  
8 information in the motions, piece together who the various  
9 entities are, their relationship. Because I didn't get that at  
10 the first hearing.

11 So if you, in the process of telling me the  
12 information about Stream, to the extent relevant, how the  
13 various players are involved in this matter. Okay?

14 MR. ALEXANDER: Absolutely, Your Honor. I can do  
15 that as we go through the process.

16 THE COURT: Okay.

17 MR. ALEXANDER: But Stream -- and as soon as I touch  
18 on one of the entities, I'll tell you who they are and --

19 THE COURT: Okay.

20 MR. ALEXANDER: -- if you have any follow-up, I'd be  
21 glad to add additional color and background as necessary.

22 THE COURT: Okay. Okay.

23 MR. ALEXANDER: But Stream was founded in 2009 to  
24 develop technology allowing consumers to view 3D content  
25 without the need to wear glasses or goggles, right? So

1 typically, when you see people utilizing 3D technology, they  
2 have some type of viewer on, whether it's basic glasses or more  
3 advanced type of goggles.

4 What was done, what the Debtors were doing, is they  
5 trademarked what they called their Ultra-D technology. And  
6 this is a proprietary combination of hardware and software that  
7 creates a, you know, as noted by the Debtor's principal, Mr.  
8 Rajan, in various declarations, it creates a natural,  
9 comfortable, and immersive glasses-free 3D viewing experience.

10 And so their goal --

11 THE COURT: And what's it called again, counsel?

12 MR. ALEXANDER: Ultra-D.

13 THE COURT: What's the trademark? Ultra?

14 MR. ALEXANDER: Hyphen, D. Capital D.

15 THE COURT: Okay. Okay.

16 MR. ALEXANDER: And so as a technology itself, the  
17 Ultra-D can be applied to panels, you know, of nearly any type  
18 and size, and it's compatible with touchscreen features as  
19 well. So ultimately, what this means is that consumers are  
20 going to be able to experience this technology on any device,  
21 whether it's a television, a tablet, a smartphone, portable  
22 game player, a laptop, you know, computers, you name it.

23 To the extent there's a panel or a type of screen,  
24 you could apply this technology to it. And as of the end of  
25 last year, the Debtor and various of its subsidiaries have been

1 granted 128 patents in 13 patent families.

2           So as part of this process of taking this Ultra-D  
3 technology and applying it to these panels, the Debtors  
4 commissioned to manufacture a specialized optical bonding  
5 equipment which would manufacture video panels utilizing the  
6 Ultra-D technology. If you want to think about this, what the  
7 machine does is it glues a 3D lens to a video panel. And you  
8 know, this particular -- and that is the large machine that the  
9 Debtors purchased and had built customized for them to bring  
10 this technology to various panels.

11           Currently, this particular machine, this bonding  
12 equipment is located in a warehouse in China. There's no  
13 dispute that the Debtor is the entity that bought this  
14 equipment and there should be no dispute that the Debtor owns  
15 this equipment and has title to this equipment.

16           But this equipment, in its current form, it needs to  
17 be reassembled. It's currently in parts. But it was  
18 previously put together and it was calibrated and optimized so  
19 that the Debtor was achieving a high-yield rate of production  
20 of 65-inch video panels. And there were some of these panels  
21 that were manufactured and, you know, were sold onto the market  
22 in terms of that.

23           This machine is integral to the Debtor's ability to  
24 operate, to be successful in this Chapter 11 case, and various  
25 parties have been preventing the Debtor from obtaining this

1 equipment. When we first filed the case, the Debtor had been  
2 in year-long litigation with various entities that loaned the  
3 Debtor money. One of those entities was SLS Holdings and the  
4 other was Hawk Investment Holdings.

5           You know, you'll hear lots of, you know, argument  
6 about what the basis of that litigation was. But essentially,  
7 the litigation started when there were alleged defaults under  
8 various loan documents with the parties. And then, the SLS and  
9 Hawk entities ultimately entered into an agreement, which is  
10 called the omnibus agreement, which stripped Stream of all of  
11 its assets. Essentially, it transferred it to a new entity,  
12 which is called SeeCubic, Inc.

13           And you're going to hear multiple SeeCubic entities.  
14 But SeeCubic, Inc., is an entity that was created by SLS and  
15 Hawk to take the Debtor's assets. There was litigation over  
16 the validity of that agreement. And ultimately, in the  
17 Delaware Chancery Court, the court ruled -- it entered a  
18 preliminary injunction, you know, holding that that agreement  
19 was effective, even though Stream argued that it was  
20 ineffective because it required the vote of its Class B  
21 shareholders before it could be effective, which it did not  
22 get. And Class B is for the most part controlled by Mr. Rajan.

23           However, they proceeded to transfer the assets  
24 pursuant to that agreement. There was a bankruptcy that the  
25 Debtor filed, Stream, originally in Delaware. And that was



1 ultimately dismissed. And one of the primary reasons if not  
2 the sole reason it was dismissed is because the bankruptcy  
3 court held that the Chancery --

4 THE COURT: Hello? Turn your phone on mute, whoever  
5 is talking. Hello? Turn your phone down. Do we know who's  
6 talking, that we can mute them?

7 COURT REPORTER: I just muted him.

8 THE COURT: Thank you.

9 MR. ALEXANDER: The bankruptcy court ultimately  
10 upheld -- or dismissed it primarily because it said that  
11 agreement was valid and there was a transfer of the assets and  
12 the Debtors didn't have any assets. But to the extent that  
13 issue got resolved, then maybe another bankruptcy would be  
14 appropriate.

15 Fast forward a couple years. That makes its way  
16 through the appellate courts in Delaware. And ultimately, the  
17 Delaware Supreme Court, in a 5-0 opinion, determined that that  
18 preliminary injunction and the final injunction and declaratory  
19 judgment with respect to that omnibus agreement should not have  
20 been entered because the Class B shareholder never voted to  
21 approve that, and therefore, it violated Stream's charter in  
22 order to authorize the transfer of the Debtor's assets.

23 So that went back down. It was supposed to go back  
24 down to the Chancery Court with all of the Debtor's assets  
25 going back to Stream from this entity SeeCubic that was

1 created. Because SeeCubic, as soon as they got that ruling  
2 from the Chancery Court, they went and started taking all of  
3 Stream's assets under, you know, the protection -- supposed  
4 protection of this order and this agreement.

5 But that agreement ended up being void. So they were  
6 required to return all of the assets back to the Debtor. And  
7 they never did that. You know, to this day, we're still  
8 missing assets that were taken that were not returned.

9 With respect to the bonding equipment itself, what  
10 they ultimately did is they tried to transfer it to other  
11 entities to keep it out of the Debtor's possession. Right?  
12 They recognized that it was owned by the Debtor, but they made  
13 it seem as if they put it in another entity's hands because  
14 they were afraid of what might happen to it.

15 But that's not the issue. The issue is who should  
16 have possession, you know, of this bonding equipment. And the  
17 Debtor is the entity that should have possession of the bonding  
18 equipment. It's integral to its reorganization. It's one of  
19 the key pieces of technology that allows the Debtor to produce  
20 these screens or these panels.

21 And so we filed it on an emergency basis because once  
22 the Debtor gets this equipment, you know, there's going to be a  
23 ramp up period where they need to reassemble the equipment and  
24 they need to get the line up and running. And then, they can  
25 start fulfilling orders for customers.

1           Since they've been in this case, the Debtors, they've  
2 already had deals with various customers in which they have  
3 purchase orders for an excess of \$100 million. And so if the  
4 Debtor can get through this bankruptcy case, it's going to need  
5 this optical bonding equipment in order to do that.

6           And once that happens, you know, what will take place  
7 is the Debtor will be able to satisfy any claims that these  
8 Creditors had or have. You know, there's going to be disputes  
9 as to the amounts of the claims. And then specific -- and also  
10 disputes with respect to whether any portion or all of the Hawk  
11 Investment Holding claim, you know, was converted to equity.

12           But those issues don't need to be resolved right now  
13 and those claims will be dealt with as part of the claims  
14 process and in the Debtor's plan. But in order to get to that  
15 point, the Debtor needs to get started because there's going to  
16 be an approximately 60-day period for it to reassemble this  
17 equipment and get everything up and running.

18           During that time period, it will be able to send  
19 some, I guess, initial product to some of its ultimate end  
20 users. But in order to get the mass production, you know, it's  
21 going to take, you know, that full 60 to 90 days to do. So  
22 every day the Debtor does not have the equipment, it pushes us  
23 further behind in terms of being able to fulfill the  
24 obligations in this bankruptcy case.

25           And so we've seen arguments from the other side that

1 this isn't an emergency because the Debtor has not had its  
2 equipment. But that misses the point. The Debtor needs the  
3 equipment and must have the equipment in order to be successful  
4 in the case. There's no reason for the Debtor not to have this  
5 equipment and it should have been turned over immediately upon  
6 the bankruptcy filing.

7 And in fact, in one of the actions that was pending,  
8 there was a receiver pendent lite that was appointed over  
9 Technovative. His name was Mr. Ian Liston. And upon the  
10 filing, Debtor's counsel reached out to Mr. Liston. And he  
11 said, well, here's the location of the bonding equipment. You  
12 know, you guys are in control now, you know, go get it.

13 But when we attempted to get it, and as we outline in  
14 our motion, the landlord indicated that various parties,  
15 through counsel, said that the equipment couldn't be released  
16 for the Debtor. And when we dug a little deeper to figure out,  
17 you know, who was making these claims and preventing the  
18 release, we find out that the lease of the building is in the  
19 name of SeeCubic, B.V., which is a subsidiary of the Debtors.  
20 And the lease was executed by a Patrick Thune. But Mr. Thune,  
21 in collaboration with Mr. Shad Stastney, who's a representative  
22 of SeeCubic, have indicated that they're not going to allow  
23 Debtors to get the bonding equipment.

24 And so there's no basis at all for them to not allow  
25 the Debtors access to the bonding equipment. You know, once

1 the Debtors have the bonding equipment, they're going to set it  
2 up in a facility, start doing the test runs, and get it fully  
3 operational so that they can go ahead and move forward with the  
4 production.

5           You know, the Debtors, based on their discussions  
6 with various other end users, have been told that once they  
7 actually get possession of the bonding equipment, there's going  
8 to be more orders to come. So you have these Creditors on the  
9 one hand who are fighting the Debtors from getting their  
10 assets, but the reason they're fighting them is because they  
11 want to keep the assets for themselves and strip the Debtor of  
12 all of its value and leave all of the Creditors and the Debtor  
13 -- other Creditors and the Debtor holding the bag.

14           But that's not how the bankruptcy process works. The  
15 Debtors are fiduciaries for all parties, and their goal is to  
16 come up with a plan. And that's what the Debtors are doing  
17 here, to come up with a plan to treat all Creditor claims. And  
18 they believe that once they get the equipment, they'll be on  
19 the path to doing that.

20           You know, we've already filed redacted versions of  
21 certain of the purchase orders showing that this is real and  
22 the Debtor is going to be capable of -- in order for the Debtor  
23 to fulfill those, it needs the bonding equipment. Okay?

24           So that is what relates specifically to the bonding  
25 equipment. And as we dug in deeper to get the bonding

1 equipment, Mr. Rajan actually flew over to the Netherlands.  
2 And when you talked about corporate structure and parties, Your  
3 Honor, I'm not sure how detailed you'd like me to get into the  
4 various, I guess the corporate structure.

5 But the way it works -- and this is -- I don't know  
6 if you have access to your docket right now. But if you look  
7 at docket entry 48-5, that lays out the structure and the  
8 ownership from Stream TV being the parent company, owning 100  
9 percent of the shares of Technovative. And then, there's  
10 another entity in between called Ultra-D Ventures, C.V. And  
11 then --

12 THE COURT: Hold on, counsel. Hold on. I actually  
13 have -- we have our own little chart here that --

14 MR. ALEXANDER: Okay.

15 THE COURT: -- we've got to make. Stream TV is the  
16 Debtor. And then, Stream owns 100 percent of Technovative; is  
17 that correct?

18 MR. ALEXANDER: That is correct.

19 THE COURT: And then, Technovative is the 99 percent  
20 general partner of Ultra-D Ventures Curacao. Where is that?  
21 Am I pronouncing that right?

22 MR. ALEXANDER: Yes, you are. Correct, Your Honor.

23 THE COURT: Well, let me -- okay. Is that correct?

24 MR. ALEXANDER: Yes, Your Honor.

25 THE COURT: And then, Ultra-D Ventures is 99

1 percent -- I don't know if they're a general partner or owner  
2 of Ultra-D Cooperative in the Netherlands. Is that correct?

3 MR. ALEXANDER: That's correct, Your Honor. And  
4 then, if you drop down one more, you get to the SeeCubic, B.V.  
5 entity.

6 THE COURT: Right. Which is 100 percent owned by the  
7 Ultra-D Cooperative, or am I wrong about that?

8 MR. ALEXANDER: You are right about that, Your Honor.

9 THE COURT: Okay. And then, there's a SeeCubic,  
10 Limited. That is 100 percent owned by SeeCubic, B.V.?

11 MR. ALEXANDER: That's not on the chart I'm looking  
12 at, Your Honor. And for today's purposes, I don't --

13 THE COURT: Well, we made our own chart. This is my  
14 chart.

15 MR. ALEXANDER: Oh, okay.

16 THE COURT: This is my chart.

17 MR. ALEXANDER: Understood.

18 THE COURT: So let's stop with your chart.

19 MR. ALEXANDER: Okay.

20 THE COURT: We'll stop at SeeCubic, 100 percent of  
21 SeeCubic, B.V., is owned by Ultra-D Cooperative. I want to  
22 stop there because we were trying to figure -- believe it or  
23 not, I do read these things. Trying to figure out who's what.

24 Okay. And then, we have U.S. Debtors, three Dutch  
25 entities, and then we have SeeCubic entities. Okay. All

1 right. And we got them color-coded, which, you know, didn't  
2 come out too well. Okay.

3 MR. ALEXANDER: Yeah.

4 THE COURT: So --

5 MR. ALEXANDER: And so just so you know, the --

6 THE COURT: I need for the --

7 MR. ALEXANDER: The limited entity is not related to  
8 the Debtor that you just mentioned.

9 THE COURT: Which one is not related to the Debtor?

10 MR. ALEXANDER: You said SeeCubic, Limited.

11 THE COURT: Right. That's not related to the Debtor?

12 MR. ALEXANDER: No.

13 THE COURT: Okay. Are you using --

14 MR. ALEXANDER: It's my understanding -- it's my  
15 understanding that that's one of Mr. Shad Stastney, whose of  
16 SeeCubic, Inc., that's one of his U.K. entities.

17 THE COURT: Okay. Okay. And to the extent this is  
18 relevant to the matter before the Court today is what I am  
19 trying to figure out. I don't need to know all of these  
20 different -- but only with respect -- because what the Debtor,  
21 with respect to the motion to enforce stay and direct turnover,  
22 has at least at some point -- or maybe in the opposition, some  
23 reference to these various entities. And I think on page 19 of  
24 the opposition, there was also a chart. Am I in the right one?  
25 Let me see.



1           There was a chart on page -- yes -- 19 that -- well,  
2           it looks better than my chart.

3           MR. ALEXANDER: Which --

4           THE COURT: Okay.

5           MR. ALEXANDER: Your Honor, could you -- which  
6           opposition? Because there's been lots of oppositions and  
7           affirmative motions filed.

8           THE COURT: This is the Opposition --

9           MR. ALEXANDER: What's the docket entry number?

10          THE COURT: Yeah. This is docket entry 105.

11          MR. ALEXANDER: Okay.

12          THE COURT: Which is SeeCubic's objection to the  
13          Debtor's emergency motion for entry of an order. And on page  
14          19, there was also a chart that to some extent follows this --  
15          but had more than what at least was on mine.

16          MR. MAZZA: Your Honor, I'm sorry to interrupt. This  
17          is Jim Mazza from Skadden. And I interrupt because you're  
18          referring to the papers that we filed on behalf of SeeCubic.  
19          So in that, that chart does indicate which entities are, you  
20          know, putative Debtors and then the entities below them, which  
21          are non-Debtors, down to the entities that I believe have been  
22          framed by the putative Debtors as subject to this automatic  
23          stay dispute. And those are color-coded in green, beginning at  
24          Cooperative.

25          THE COURT: Okay. Well, mine did not color-code. So

1 I have --

2 MR. MAZZA: Oh, I apologize.

3 THE COURT: No, it's not your fault. It just didn't.

4 MR. MAZZA: Yeah.

5 THE COURT: And so there's -- yes. I think what was  
6 missing on mine are the ones that you had in between the  
7 Technology Holdings Delaware, Media Holdings Delaware, Ultra-D  
8 Ventures C.V. Curacao is on there. Ultra-D Cooperative, the  
9 Netherlands is there. And then, the Stream TV Netherlands is  
10 on there. And the SeeCubic, B.V., the Netherlands is on your  
11 chart. I have SeeCubic, Limited, and I also have SeeCubic  
12 India, which is not on yours.

13 So as I said, we tried to figure this out. Not sure  
14 how well we did, but we tried. So at some point, I just want  
15 the parties to at least tell me how they think they're related.  
16 The Debtors think that their -- the assets are somehow related  
17 to the Debtor. Obviously, the opposition does not believe that  
18 they're any way related to the Debtor, but I'll hear those  
19 arguments.

20 Okay. So Mister -- counsel for Debtor, you can  
21 continue with respect to -- I think we have the corporate  
22 structure, at least what I need to know at the moment just from  
23 an overall basis. I am assuming that the parties will get into  
24 more detail. Okay?

25 MR. ALEXANDER: Thank you, Your Honor. So in terms

1 of what was discovered after we filed the initial motion, and  
2 as you may recall, I said that there was a, you know, a  
3 receiver in place who, upon the filing of the bankruptcy,  
4 recognized that he was displaced. And the receiver was  
5 directly controlling, you know, all of these subsidiaries  
6 through the rights of Stream and Technovative.

7           So upon the filing, you know, all these rights vested  
8 or revested in the Debtor. And they worked with Mr. Liston,  
9 who was the receiver. He acknowledged that he was displaced.  
10 He began turning over information and materials regarding, you  
11 know, all of the subsidiaries, including with respect to the  
12 bonding equipment.

13           And then, in order to continue using these management  
14 rights and operate these subsidiaries that are integral, you  
15 know, to the Debtor's business because they hold the Debtor's  
16 intellectual property, Mr. Rajan flew over to the Netherlands  
17 in order to assess the situation there, you know, from a  
18 financial standpoint, from an employee standpoint, and also  
19 determine what was going on, advise the parties of the  
20 bankruptcy, advise that he was the CEO, which he is. And he's  
21 the sole director of those entities. And that they needed to  
22 start cooperating with respect to the Debtors being able to  
23 proceed in the bankruptcy case and that Mr. Liston was no  
24 longer involved.

25           And in fact, Mr. Liston actually sent correspondence

1 to SeeCubic, B.V., and Mr. Patrick Thune, who works at  
2 SeeCubic, B.V., you know, advising them that this transition  
3 was taking place. And so there was no doubt that all of these  
4 parties, you know, had knowledge of the bankruptcy cases and  
5 that there's no dispute of the ownership.

6 There's never at any point, you know, been any  
7 transfer of the ownership of any of these entities. There's  
8 been no foreclosure of stock interests. None of these  
9 Creditors have ever taken that step. And so they are still  
10 owned by the Debtors.

11 And so what comes along with that are the rights to  
12 manage and operate these entities. And so that's what Mr.  
13 Rajan was doing when he went over there, was to assess it, take  
14 control, and also to determine what type of funding was  
15 necessary to keep running these entities and also determine,  
16 you know, whether that lines up what the vision is going  
17 forward in terms of the Debtor's operations.

18 And what Mister --

19 THE COURT: Counsel?

20 MR. ALEXANDER: Yes, Judge?

21 THE COURT: Counsel?

22 MR. ALEXANDER: Sure?

23 THE COURT: When you say these entities, specifically  
24 what entities are you referring to?

25 MR. ALEXANDER: SeeCubic, B.V. is the specific entity

1 that he went over to the Netherlands in terms of the operations  
2 of. And that's owned by the Stream TV Network and  
3 Technovative, when you follow through the chart.

4 THE COURT: If I look at this chart and do a  
5 back -- okay. There's two different -- your chart doesn't have  
6 the Delaware and the Hawk has Technology Holdings Delaware and  
7 Media Holdings. And mine just goes straight from -- and I  
8 don't know which one is right, I just made my own chart --  
9 Stream TV to Technovative, Technovative to Ultra-D, and Ultra-D  
10 Ventures to Ultra-D Cooperative, and then Ultra-D Cooperative  
11 to SeeCubic, B.V. So we're talking about SeeCubic, B.V. is the  
12 one in the Netherlands that you went over for? Mr. Rajan went  
13 over for?

14 MR. ALEXANDER: Yeah. That's correct, Your Honor.  
15 Okay. And so that entity. And what they were met with was Mr.  
16 Patrick Thune advising them that Mr. Stastney -- remember Mr.  
17 Stastney is affiliated with SeeCubic, Inc., and those are  
18 Creditors, you know, of --

19 THE COURT: Now, wait a minute. Could you spell that  
20 for me?

21 MR. ALEXANDER: Stastney is S-T-A-S-T-N-E-Y.

22 THE COURT: I'm sorry, say that again.

23 MR. ALEXANDER: His first name is Shadron. I believe  
24 I said that correctly. It's S-H-A-D-R-O-N. The last name is  
25 Stastney, S-T-A-S-T-N-E-Y.

1 THE COURT: And he is? And who is he again?

2 MR. ALEXANDER: He's a principal at SeeCubic, Inc.  
3 And also I believe affiliated with Hawk Investment Holdings.

4 THE COURT: Okay. So I think you were going --

5 MR. ALEXANDER: I'm sorry. He's affiliated with SLS.  
6 I apologize.

7 THE COURT: With SLS.

8 MR. ALEXANDER: SLS Holdings.

9 THE COURT: Wait. S?

10 MR. ALEXANDER: L-S, Holdings.

11 THE COURT: Okay.

12 MR. ALEXANDER: And those are parties, if you recall,  
13 that said the Debtor had financing arrangements with Hawk  
14 Investment Holdings and also SLS Holdings, I believe it's VI,  
15 LLC. None of those entities, you know, loaned money to any of  
16 the subsidiary entities. It was solely Stream TV, the Debtor.

17 THE COURT: Okay.

18 MR. ALEXANDER: And what Mr. Thune was telling Mr.  
19 Rajan is Mr. Stastney, based on his debts with the Debtors,  
20 right, so the claims that he believes he has against the  
21 Debtors, you know, he's able to direct, you know, certain  
22 actions at the subsidiaries. And so they're trying to use  
23 their debts against the Debtors to try and impact these  
24 subsidiaries that are integral to the Debtor's reorganization  
25 process and were set up for, you know, tax and research and

1 design purposes.

2 And so they're interfering with the Debtor's ability  
3 to be able to manage these entities. And they have no basis to  
4 do that. You know, Mr. Rajan is the CEO. And again, there's  
5 been no argument or I haven't seen anything in any of the  
6 papers, you know, indicating that stock ownership was  
7 transferred away from Stream TV or Technovative with respect to  
8 any of the downstream entities.

9 And so upon the filing, all of that ownership  
10 remained with the Debtor's estates. And so what these parties  
11 are trying to do is make an end run and try to go now at the  
12 other assets. But their only basis for attempting to do that  
13 is based on their claims that they assert that they have  
14 against the Debtors.

15 And so their actions are damaging the estates and the  
16 abilities of the Debtor to proceed and progress in this case.  
17 Because again, the SeeCubic, B.V. entity holds the R&D and  
18 certain of the intellectual property that's utilized by the  
19 Debtors to manufacture those panels that we discussed about  
20 earlier through the use of the bonding machine.

21 So it's all interrelated in terms of the process in  
22 which the Debtors are going to be able to succeed. And so you  
23 have parties that have come before this Court, you know, who  
24 filed a motion to seek relief from the automatic stay to  
25 proceed with a, you know, dispute in the Chancery Court in

1 Delaware. But then, they're taking the very action that they  
2 were seeking to obtain by seeking the relief.

3 And so clearly, they know that the actions they're  
4 doing are improper and are a violation of the stay. And so  
5 what we're seeking from the Court with respect to that is for  
6 them to stop interfering with the Debtor's management. And  
7 they've even gone so far as to file a lawsuit in the  
8 Netherlands trying to strip the Debtors of their management  
9 rights with respect to SeeCubic, B.V.

10 And so the Debtor has those rights through its  
11 ownership interests, you know, through the various  
12 subsidiaries. And we believe that's an intentional  
13 interference with property of the estate and the Debtor's  
14 ability to manage, you know, its assets.

15 And so we think it clearly falls within a violation  
16 of the stay. And so the first two violations that we have are,  
17 one, with respect to the bonding equipment. And you know,  
18 quite frankly, I haven't seen anything filed which indicates  
19 it's not owned by the Debtors and shouldn't be in their  
20 possession.

21 And now, we have the management rights of the  
22 subsidiaries that are being interfered with by the acts of, you  
23 know, Mr. Stastney directing people such as Patrick Thune. And  
24 then also, you know, the filing of the lawsuit, which was  
25 purportedly filed on behalf of SLS, Hawk, SeeCubic, Inc., and



1 Mr. Stastney.

2 And so if the Debtors are going to have a chance to  
3 succeed in this case, you know, this interference has to stop.  
4 You know, these parties are looking to steal the Debtor's  
5 assets and keep them for themselves, but that's not what  
6 bankruptcy is about. It's an equitable process in which the  
7 Debtors have a statutory right to attempt to reorganize. And  
8 that's what they're trying to do in this, but they need  
9 possession of all of their assets and they need the  
10 interference to cease.

11 The third basket, in terms of the stay relief and  
12 turnover, if you recall, I previously had mentioned that  
13 omnibus agreement. And part of that agreement and the order  
14 from the Chancery Court required certain assets -- and we list  
15 the assets in the motion, with respect to various display  
16 units, tablets, corporate laptops. All of those ended up being  
17 turned over from Stream to SeeCubic, Inc.

18 Once the omnibus agreement was determined to be void  
19 and improper by the Delaware Supreme Court, those assets were  
20 all supposed to come back. The Chancery Court entered an order  
21 saying all those assets needed to come back. And to this day,  
22 those assets still have not been returned to the Debtor. And  
23 we outlined, you know, the specific assets in our -- and let me  
24 get the document entry number. We believe it's 76, Your Honor.

25 THE COURT: Let me -- I don't think I've printed out

1 76, but let me look at -- motion for sanctions. Is that the  
2 original motion?

3 MR. ALEXANDER: Let me double check. Maybe that's  
4 not -- it's not. I apologize, Your Honor. It's not outlined.  
5 I'll get the docket entry for you that has those identified.  
6 But those are the assets that were transferred and were  
7 supposed to come back to the Debtor.

8 THE COURT: All right.

9 MR. ALEXANDER: And SeeCubic, Inc., has refused to  
10 deliver them, or alternatively, account for them in terms of  
11 what happened to them. Because the response the Debtor had  
12 when it sought certain of these are, well, some of those aren't  
13 really property of the Debtor because maybe we made some  
14 improvements to them. Or they were returned.

15 But you know, we believe the code requires more than  
16 that, and it actually requires not only the return but an  
17 accounting for those assets, so.

18 THE COURT: Okay. And what assets are you -- what  
19 docket entry number are you referring to?

20 MR. ALEXANDER: I'm scrolling through to try and find  
21 that as we talk, Your Honor.

22 THE COURT: Is it in your supplemental, number 90? I  
23 did print 90, but not -- supplemental motion for stay for  
24 turnover and sanction.

25 MR. ALEXANDER: It may be 76, and then, number 3.

1 THE COURT: Number 3?

2 MR. ALEXANDER: So 76-3.

3 THE COURT: Okay. Exhibit C?

4 MR. ALEXANDER: That's correct, Your Honor. Where we  
5 list the other Stream assets, a list of Debtor's property, you  
6 know, in possession of SeeCubic, Inc. And we go through there,  
7 there's the Ultra-D -- their demonstrator samples. We identify  
8 the last location, you know, where they were at or where the  
9 Debtors knew they were at. And then, we also go through and  
10 list the tablets. To the extent that we have serial numbers,  
11 we listed the serial numbers.

12 And so we provided as much information as possible so  
13 that there's no misunderstanding in terms of, you know, what  
14 assets are being referred to and which ones need to be turned  
15 over. And so we've identified, you know, each of those assets  
16 and the reasons why those assets are important.

17 You know, putting aside the business computers, which  
18 had numerous information of the Debtor's in terms of their  
19 business operations on it, which they no longer have access to,  
20 but the specific samples. This is what the Debtors use when  
21 they go out to pitch the product and sell it to other parties.

22 And so again, part of the equation is, is it of  
23 inconsequential value. And certainly, these are very material  
24 and they allow the Debtors to go out and get more purchase  
25 orders with the goal in mind of being able to deal with the

1 debts of SLS and Hawk, you know, in this bankruptcy process.

2 And so these are very integral to the Debtors being  
3 able to do that. And these are samples that, you know,  
4 customers want to see. I mean, they actually want to see the  
5 product work and how it works before they, you know, issue more  
6 purchase orders or for entities that the Debtors have not done  
7 business with in the past, new purchase orders.

8 And so all of that property, you know, should be  
9 returned and turned back over to the Debtors so that they can  
10 utilize it as part of the process, in terms of reorganization.  
11 And so you know, most creditors that I see in bankruptcy cases,  
12 they want to get paid. And so in order for these Creditors to  
13 get paid, you know, they need to allow the Debtors to operate  
14 and not interfere with their operations and allow them to have  
15 all of their property in their possession.

16 It's all going to be under this Court's, you know,  
17 jurisdiction, in terms of how the Debtor operates, reporting  
18 requirements. And so that is, you know, what we're looking to  
19 do here, is to stop the violations of the automatic stay,  
20 require property to be turned over to the Debtor. There's no  
21 good faith basis for it not to be in the possession of the  
22 Debtors. And this is very material to the Debtors.

23 And you know, I just want to note in terms of the  
24 urgency with respect to the interference at SeeCubic, B.V., you  
25 know, they've filed a proceeding and they have a hearing set on

1 the 20th where they're trying to oust Mr. Rajan, you know, from  
2 the management of that entity. And you know, that could be  
3 very detrimental because again, the Debtor then won't have  
4 control over its intellectual property which it utilizes in  
5 terms of creating these panels, which is has \$100 million-plus  
6 in orders that it's obtained since the bankruptcy cases were  
7 filed.

8           So we need the actions to stop. We need the parties  
9 to comply with what the bankruptcy code requires. And then,  
10 the Debtors can go ahead and proceed with the case in an  
11 orderly fashion. And instead of focusing on, you know, where  
12 are our assets, who's interfering with it, they can actually  
13 focus on the restructuring part and making sure that Creditors  
14 in this case and their claims ultimately get satisfied as part  
15 of a plan because there should be plenty of money, based on  
16 these orders, to deal with all the claims in this bankruptcy  
17 case.

18           But the Debtors need the breathing spell and they  
19 need to be afforded the rights under the bankruptcy code in  
20 order to do that without the violations by SLS, Hawk, SeeCubic,  
21 and Mr. Stastney, and their work essentially interfering in the  
22 operations of the Debtor's subsidiary, SeeCubic, B.V., in the  
23 Netherlands.

24           And so Your Honor, we believe that there's an urgency  
25 in granting this relief and we would request that Your Honor

1 enter an order directing them to stop interfering with the  
2 Debtor's management of its subsidiaries, turn over and allow  
3 access to the bonding equipment, and also all of the other  
4 property that's listed in 76-3.

5 THE COURT: Okay.

6 MR. ALEXANDER: And if Your Honor has any questions,  
7 I'm happy to help clarify. I know when we do this over the  
8 phone, it's not as easy as if we're able to hand you things in  
9 person. But I'm happy to try and point you to any other  
10 documents or follow-up on any questions that you may have.

11 THE COURT: Okay. Not at this time. I want to hear  
12 from SeeCubic. Okay. And you said Mr. Mazza on behalf of  
13 SeeCubic? Or did I have that backwards?

14 MR. MAZZA: You are correct, Your Honor. This is Jim  
15 Mazza from Skadden on behalf of SeeCubic. And if I may  
16 proceed?

17 THE COURT: Yes.

18 MR. MAZZA: I'll respond to what Mr. Alexander went  
19 through. And I got to say, first off, there's a long history  
20 here, and I know the Court has seen a lot of papers get filed  
21 with that history. And I'm not going to belabor it, but -- and  
22 I think it's going to come out as more as there will actually  
23 be evidence as part of this case.

24 But I think the axiom that an honest debtor is  
25 entitled to the benefit of the doubt does not apply here.

1 There is history with this being the third filing, and Mr.  
2 Alexander has an explanation as to why this was an okay filing.  
3 I'll respond to that in due course.

4 But every one of these filings was at the eleventh  
5 hour to avoid a foreclosure. It's a textbook bad faith use of  
6 the bankruptcy system, and I think Hawk's motion to dismiss,  
7 convert, or have a trustee appointed is actually much more  
8 relevant than the rich irony of the Debtor hauling us into  
9 court to try to have to explain ourselves when they have both  
10 the facts and the law completely wrong. And it should be their  
11 principal, Mr. Rajan, explaining himself as to why these cases  
12 were filed and what this is really about.

13 The automatic stay issues, Your Honor, are actually  
14 pretty simple when you look at the law. And I don't think -- I  
15 know this isn't an evidentiary hearing. I know there seems  
16 like there was a lot of testimony from the podium from Mr.  
17 Alexander. And what it boils down to, it's pretty simple.

18 We're looking at a few different discrete items that  
19 they're making complaints about, the first of which is this  
20 bonding equipment. And I think there's enough in the record  
21 that the Court can take judicial notice of to the extent  
22 there's any need for facts. But the bottom line is there's a  
23 simple legal principal that applies here that the Supreme Court  
24 had put in a holding very recently. And that is the retention  
25 of estate property is not a stay violation. And that, we cited

1 in our papers, *Fulton v. City of Chicago*.

2 And that's the law, period, full stop. I've  
3 mentioned --

4 THE COURT: Okay. Counsel, let me ask you -- let me  
5 ask you with respect to the *Fulton* decision. Retention. In  
6 those cases, the -- I think it was a couple of cases -- the  
7 *City of Chicago* had repossessed the vehicles in question. So  
8 they were rightfully in possession. In other words, they had  
9 a -- they were holding it pursuant to, I guess, their rule,  
10 whatever.

11 And what I'm trying to figure out in this case, what  
12 right did SeeCubic have to -- let's start with that bonding  
13 equipment first. Under what basis did SeeCubic have -- so  
14 that's the first thing you have to establish, is that you had a  
15 right to retain it. So what basis did SeeCubic have to be in  
16 possession of this bonding equipment?

17 MR. MAZZA: Your Honor, let me answer that question  
18 as to the facts as it relates to the bonding equipment that we  
19 laid out in our papers and what has been going on in the Court  
20 of Chancery. So that bonding equipment is sitting in a  
21 warehouse in a city in China, and it's been sitting there  
22 inoperable for a long period of time.

23 And so SeeCubic is --

24 THE COURT: Okay.

25 MR. MAZZA: SeeCubic is not doing anything to



1 exercise any control over that equipment. It just remains in  
2 the warehouse. And so that --

3 THE COURT: Okay. So why isn't it being -- no, no,  
4 no. It's more than that. Why isn't it being released to the  
5 Debtor?

6 MR. MAZZA: So and Hawk, I know, is on the phone as  
7 well. And I think one thing that the Debtor's counsel has not  
8 conveyed to the Court are discussions where the parties have  
9 tried to figure out a way to consensually actually return the  
10 equipment to Stream under the ordinary process of dealing with  
11 adequate protection.

12 And let me tell you, Your Honor, the discussions  
13 around that were pretty basic, asking the Debtor for proof of  
14 insurance, method by which they would move the equipment,  
15 because it's highly technical equipment, where they might  
16 actually move the equipment, as far as ultimate location.  
17 Those particular details have not been shared with either us or  
18 Hawk as part of this discussion.

19 So really, the --

20 THE COURT: So counsel, let me ask you this. You  
21 represent SeeCubic.

22 MR. MAZZA: Correct.

23 THE COURT: What is SeeCubic's interest in this  
24 bonding equipment?

25 MR. MAZZA: SeeCubic's interest in the bonding

1 equipment, I think, Your Honor, there's a few points. Again,  
2 it's sitting in a warehouse in China --

3 THE COURT: Counsel, I get all that.

4 MR. MAZZA: Correct. Right.

5 THE COURT: My question is what is SeeCubic's  
6 interest in the bonding equipment and what is it based on?

7 MR. MAZZA: So we are a secured Creditor, along with  
8 Hawk, in connection with the bonding equipment. And therefore,  
9 we have an interest in the Debtor providing adequate  
10 protection, which, again, we tried to resolve --

11 THE COURT: Okay. So wait a minute, counsel --

12 MR. MAZZA: -- resolve with the Debtor.

13 THE COURT: Counsel. Counsel, let me walk you  
14 through this. So you're a secured Creditor in that you have a  
15 bonding equipment?

16 MR. MAZZA: Correct.

17 THE COURT: And when I say you, you mean SeeCubic has  
18 a security interest in the bonding equipment?

19 MR. MAZZA: That's right, Your Honor. Your Honor,  
20 this --

21 THE COURT: SeeCubic -- wait a minute.

22 MR. MAZZA: This --

23 THE COURT: Hold on. Hold on. I mean, I'm trying to  
24 get the facts, because my reading -- and that's why I'm asking  
25 questions -- is that I thought -- and there's a couple of

1 SeeCubics. I thought the -- which SeeCubic are you referring  
2 to? So maybe that makes a difference.

3 MR. MAZZA: Yeah. Yeah. Right, Your Honor. I can  
4 see how it can get a little bit --

5 THE COURT: So SeeCubic. Who has a security interest  
6 in the bonding? SeeCubic, Inc.?

7 MR. MAZZA: Correct.

8 THE COURT: Now, I thought SeeCubic, Inc., was formed  
9 to take possession pursuant to that agreement?

10 MR. MAZZA: You're right, Your Honor. It was the  
11 acquisition vehicle through the foreclosure that previously  
12 occurred. And so --

13 THE COURT: So how does it have a security interest?  
14 It's actually, its interest in the bonding equipment arose  
15 pursuant to that agreement that is now void. At least,  
16 according to the Delaware Supreme Court, that agreement is  
17 ineffective and any transfer to SeeCubic would be ineffective.

18 MR. MAZZA: Right.

19 THE COURT: So SeeCubic's interest was pursuant to a  
20 void order. How is it a secured Creditor?

21 MR. MAZZA: So let me peel it back a little bit  
22 further, Your Honor. So Hawk is a secured Creditor of Stream.  
23 Under pledge agreements securing loans, Stream granted Hawk the  
24 right to vote all of its shares in Technovative common stock  
25 following an event of default.

1 After the omnibus agreement was approved, Hawk and  
2 SLS made loans to SeeCubic to help grow the business. And they  
3 entered into a note and purchase agreement amongst those  
4 parties, in conjunction with which Hawk and SLS --

5 THE COURT: What parties? Wait a minute. What  
6 parties?

7 MR. MAZZA: Hawk, SLS --

8 THE COURT: What parties?

9 MR. MAZZA: Hawk, Your Honor, and SLS, who's the  
10 first lien Creditor, and SeeCubic. And they transferred their  
11 rights --

12 THE COURT: Okay. Okay.

13 MR. MAZZA: And they transferred their rights as  
14 Creditors to SeeCubic, thereby consolidating those rights  
15 within a single entity. Pursuant to that agreement, Hawk is  
16 still able to enforce and levy enforcement rights against  
17 Stream because of an agreement between SeeCubic and Hawk. So  
18 that's how the interplay works between the secured Creditors.  
19 And that's been already decided by the Chancery Court in a  
20 collateral estoppel opinion that was issued --

21 THE COURT: Okay. And that had nothing to do with  
22 that agreement because I understand the agreement, it was  
23 pursuant to this agreement that the assets, including this  
24 bonding equipment, was transferred to SeeCubic. So right now,  
25 the title to this thing belongs to the -- unless you're telling

1 me the Debtor never had title, title and ownership remains with  
2 the Debtor. And that according to -- so whatever the -- with  
3 respect to -- not with the rights to who had security interests  
4 or any of that other stuff.

5 MR. MAZZA: Right.

6 THE COURT: Transfer of the equipment -- talking  
7 about the bonding equipment -- to SeeCubic was undone because  
8 the court found that whatever happened with respect to that  
9 agreement was not enforceable. And so to the extent the  
10 equipment had been transferred, it really has to go back to the  
11 Debtor.

12 MR. MAZZA: So --

13 THE COURT: So the bonding equipment -- no? Who did  
14 it go back to?

15 MR. MAZZA: Sorry. Go ahead.

16 THE COURT: So who did it go back to? Who owns it  
17 right now?

18 MR. MAZZA: Yeah. So Your Honor, it's property of  
19 the estate. So the --

20 THE COURT: Counsel, that did not answer my question.  
21 My question is who owns -- if the transfer to SeeCubic is  
22 undone --

23 MR. MAZZA: Correct.

24 THE COURT: -- who is the owner of the bonding  
25 equipment?

1 MR. MAZZA: Stream.

2 THE COURT: Okay. So if Stream is the owner and no  
3 one has repossessed or foreclosed or did anything with respect  
4 to the bonding equipment -- okay? I get you might have a  
5 security interest, and I'm not saying you don't. And if the  
6 Delaware court already decided you did, that's fine. But for  
7 my purposes, if you didn't foreclose, you meaning either  
8 SeeCubic, who has the rights of Hawk and SFL -- or am I  
9 pronouncing right? Is it FSL or FLS?

10 MR. ALEXANDER: SLS.

11 THE COURT: They transferred --

12 MR. MAZZA: SLS, Your Honor.

13 THE COURT: SL what?

14 MR. MAZZA: SLS.

15 THE COURT: SLS. That's what I thought I said. SLF.  
16 I'm saying SFL. SLS. Whatever security interests that Hawk  
17 and SLS had in the bonding equipment, they transferred those  
18 rights to SeeCubic, correct?

19 MR. MAZZA: Correct.

20 THE COURT: Correct?

21 MR. MAZZA: Correct. You're right.

22 THE COURT: And neither Hawk, SLS, or SeeCubic  
23 foreclosed on that or took possession of it, because that order  
24 was undone, correct?

25 MR. CAPONI: Your Honor, from Hawk's perspective,

1 incorrect. But I'll let Mr. --

2 THE COURT: Okay.

3 MR. CAPONI: Only because you had mentioned Hawk.

4 MR. MAZZA: Yeah.

5 THE COURT: Well, okay. Well, let's put it this way.

6 Did anybody foreclose on that bonding equipment? Did anybody  
7 repossess the bonding equipment?

8 MR. CAPONI: So Your Honor, again, Steve Caponi for  
9 Hawk. Factually, what occurred, Your Honor -- and the answer  
10 to your question is yes. Factually, what occurred in the  
11 connection with -- the Delaware Supreme Court invalidated the  
12 omnibus agreement and directed the Court of Chancery to unwind  
13 the omnibus agreement, effectively, and move assets back to  
14 where they belong.

15 With respect to the piece of bonding equipment, it  
16 was never, full stop, never an asset of this estate. It was  
17 always --

18 THE COURT: Wait a minute.

19 MR. CAPONI: Yes, Your Honor?

20 THE COURT: Wait a minute. I just -- I just -- Mr.  
21 Mazza just said it's property of the estate. Which one is it?  
22 Who owns it?

23 MR. CAPONI: I can only answer for my client, Your  
24 Honor. The piece of bonding equipment was always retained at  
25 the SeeCubic, B.V., level. That's where the equipment was

1 owned. Stream was always and remains a holding company. It's  
2 only asset -- it had no operations. Its only asset was stock  
3 in Technovative and then downstream to the SeeCubic, B.V.,  
4 level.

5 THE COURT: Okay.

6 MR. CAPONI: The way the Court of Chancery  
7 effectuated the omnibus agreement, meaning when it first  
8 ordered the omnibus agreement to be complied with, what  
9 occurred was the stock of Technovative was moved over to  
10 SeeCubic because once you took Technovative, all the operating  
11 subsidiaries fell underneath that to the really only operating  
12 subsidiary, which is SeeCubic, B.V.

13 So fast forward --

14 THE COURT: Okay. So who has --

15 MR. CAPONI: Fast forward --

16 THE COURT: Counsel, let's cut to the chase.

17 MR. CAPONI: Yes.

18 THE COURT: Who is the title owner of the bonding  
19 equipment?

20 MR. CAPONI: The title owner of the bonding equipment  
21 is SeeCubic, B.V., in the Netherlands. But Your Honor, to your  
22 point about foreclosure, after the Supreme Court set aside the  
23 omnibus agreement and it came back to the Court of Chancery,  
24 the Vice Chancellor Lassiter (phonetic), gave Stream a 10-day  
25 window to raise the funds sufficient to pay off the secured



1 debt before it would allow the secured Creditors to exercise  
2 their secured Creditor rights, which included foreclosure,  
3 self-help, et cetera.

4 That 10-day window expired, Stream having done  
5 nothing. Hawk, in the name of Hawk and SLS and SeeCubic --  
6 again, as Mr. Mazza indicated, there was a pooling of these  
7 security interests -- executed a series of documents  
8 repossessing its collateral, directing that the stock in  
9 Technovative be transferred over to SeeCubic.

10 That triggered the 225 action. And the court put in  
11 place the receiver to freeze everything in place. The receiver  
12 was at the Technovative level and lower. And I think the  
13 quickest way to dispose of Your Honor's question is if you  
14 look, again, judicial notice, at what occurred in the Court of  
15 Chancery.

16 When Stream wanted to get possession of the bonding  
17 equipment, it negotiated with the receiver, who was below  
18 Stream. So if Stream had the bonding equipment, it would not  
19 have been negotiating with the receiver. It was negotiating  
20 with the receiver, vis a vis Technovative, ultimately  
21 controlled SeeCubic, B.V.

22 THE COURT: Okay.

23 MR. CAPONI: There was a motion made with the Court  
24 of Chancery where the receiver -- and the Court of Chancery  
25 authorized this, so this is like collateral estoppel here. The

1 Court of Chancery authorized the receiver to permit Stream to  
2 take possession of the bonding equipment. And the order is  
3 very clear, the receiver could cause SeeCubic, B.V., to turn  
4 over possession of the bonding equipment -- and SeeCubic, B.V.  
5 is a non-Debtor -- if certain conditions were made, which was  
6 Mr. Mazza indicated, proof of insurance, putting up a bond, et  
7 cetera.

8 The Debtor never did that. So the state of play when  
9 this case was filed was that the bonding equipment was still  
10 resident under the ownership of SeeCubic, B.V., rights, title,  
11 and interest, subject to the secured Creditor's liens. There  
12 was an opportunity for the Debtor to take possession -- oh,  
13 sorry, SeeCubic, B.V., being a non-Debtor. The Debtor could  
14 take possession if it satisfied the court order.

15 It never did. So once the bankruptcy was filed, we  
16 are back to the beginning. Stream wants an asset that the  
17 right, title, and interest resides pursuant to the Court of  
18 Chancery order on this point, at SeeCubic, B.V., subject to the  
19 foreclosure options that my client exercised as well as a  
20 secured interest.

21 THE COURT: Okay. So you believe that your client  
22 actually foreclosed on the property and that it's not property  
23 of the Debtor's estate?

24 MR. CAPONI: Correct. Well, it's not property of the  
25 Debtor's estate, A, because it's at the SeeCubic, B.V., level,

1 which is not a Debtor or even a subsidiary of a Debtor. It's  
2 about four steps removed. And as the Vice Chancellor --

3 THE COURT: Well, but wait a minute. But --

4 MR. CAPONI: Yes, Your Honor?

5 THE COURT: But counsel, you would also agree -- and  
6 maybe I'm missing something -- that the SeeCubic, B.V., is  
7 owned 100 percent by Ultra-D Cooperative, which is 99 percent  
8 owned by Ultra-D Ventures, and Ultra-D Ventures is 99.9  
9 percent -- Technovative is the 99.9 percent general partner.  
10 So that any interest that these Debtors have -- or the only one  
11 I guess would be Technovative -- have is pursuant to its  
12 ownership interests in the various companies that flow down to  
13 SeeCubic, B.V.?

14 MR. CAPONI: Your Honor --

15 THE COURT: And not directly. And not directly.

16 MR. CAPONI: Yes, Your Honor. So I do not profess to  
17 be a -- I'm a litigator, not a pure bankruptcy lawyer. And so  
18 I just point out that whatever the legal effect is of the  
19 Debtor not putting a subsidiary into bankruptcy is for someone  
20 else on this call to address. I will only comment to the  
21 extent to say that the laws in the Netherlands, which is why I  
22 think there's a hearing next week. I'm not involved in it. I  
23 don't know much. But the law in the Netherlands is such that  
24 the directors owe duties, I think, greater than to just their  
25 controlling stockholder. And that is why the controlling

1 stockholder cannot just replace necessarily a director, which  
2 is what the Debtor is trying to do.

3 Again, above my pay grade to a certain extent. But  
4 this is not -- if this was in the United States, Your Honor, in  
5 Delaware where I'm most familiar, yes, I would agree with you,  
6 a wholly owned sub of a wholly owned, you know, sub of a wholly  
7 owned sub ultimately goes back to the parent. That apparently  
8 is not the case --

9 THE COURT: Right. And the --

10 MR. CAPONI: -- in the Netherlands. And because this  
11 is not a Debtor.

12 THE COURT: But it doesn't matter that it's not a  
13 Debtor. The Debtor's interest in those entities is property of  
14 the estate.

15 MR. CAPONI: Yes, Your Honor.

16 THE COURT: You don't disagree with that?

17 MR. CAPONI: The Debtor does not have an interest in  
18 the assets, the specific assets, of the non-Debtor entity.

19 THE COURT: I get that.

20 MR. CAPONI: It has an interest of in the entity.  
21 Yes, I agree with you.

22 THE COURT: I get that, counsel. And that's what I'm  
23 saying, is the Debtor's interest in the subsidiaries, as I'm  
24 going to call them, is property of the estate.

25 Now, I'm a little confused because the Debtor --

1 Debtor's counsel said that the Debtor had title to and  
2 purchased the bonding. So somebody is wrong. It can't be  
3 both. It can't be that the Debtor purchased and had title, and  
4 your position, counsel, that in fact, the Debtor did not  
5 purchase and that title lied with SeeCubic, B.V.

6 I don't know which one it is. And I guess -- I mean,  
7 I'm not going to decide that today. But it goes to me trying  
8 to figure out where we are and whether there's some preliminary  
9 relief that I can grant pending a full-blown evidentiary  
10 hearing.

11 MR. CAPONI: Your Honor?

12 THE COURT: But it's a --

13 MR. CAPONI: I agree with your -- this is not  
14 the -- will not be the first and last time there's a polar  
15 opposite view of the facts from the Debtor and the secured  
16 Creditors. I would just say the easiest way for the Court to  
17 look at this in a preliminary level -- and again, an  
18 evidentiary hearing may be required -- is to look at the court,  
19 which, the Court can take judicial notice of there was a  
20 specific order entered in the Court of Chancery where the  
21 Debtor petitioned the receiver in order to get control of this  
22 asset.

23 And in that proceeding and in those orders, nowhere  
24 did the Debtor argue that it had title. Everyone acknowledged  
25 title and possession belonged to SeeCubic, B.V. I understand

1 they're changing their tune now, and we can, you know, tease  
2 that out in the future for Your Honor.

3 But lastly on this point, Your Honor, my clients, as  
4 the Court of Chancery noted several times, had expansive  
5 self-help rights on all of the assets, top to bottom. And we  
6 exercised those rights prior to this bankruptcy. The only  
7 reason my client was funding and managing and operating  
8 SeeCubic, B.V., the only reason we didn't take title to the  
9 stock, et cetera, was because the Court of Chancery put the  
10 receiver in place during the 225 action. But that occurred  
11 after we had already issued all the notices required under the  
12 various contracts to pull the trigger on our self-help rights.

13 THE COURT: Okay. So that just means, as far as I'm  
14 concerned, is that if you exercised -- and when you say you,  
15 presumably, you mean SeeCubic, because what I'm hearing -- or  
16 maybe I misunderstood, was that all of the rights for your  
17 stock had been transferred to SeeCubic. Was that correct?

18 MR. CAPONI: That is correct, Your Honor. And the  
19 reason I refer to -- the reason everyone refers to Hawk in the  
20 shorthand for SeeCubic is that SeeCubic -- sorry, SeeCubic  
21 issued notes separately to Hawk. Those notes are in default.  
22 And Hawk, under those notes, is the collateral agent of  
23 SeeCubic, with all of the rights to exercise all of SeeCubic's  
24 rights in Hawk's own name or in the name of SeeCubic.

25 So with regard to the secured debt, it is not

1 directly owned by Hawk. But as a result of a default under a  
2 different set of notes, for all intents and purposes, Hawk is  
3 the party exercising all of SeeCubic's rights.

4 THE COURT: And does SeeCubic exercise and  
5 grant -- it's going to get a little dicey, as far as I'm  
6 concerned, the -- you said SeeCubic issued notes to Hawk that  
7 it defaulted on.

8 MR. CAPONI: Yes.

9 THE COURT: And those notes to Hawk gave -- what did  
10 SeeCubic give to Hawk on those notes? In connection with those  
11 notes?

12 MR. CAPONI: Your Honor, those -- yeah. Those notes,  
13 by virtue of those notes, Hawk was the first lien secured  
14 Creditor over all of the assets -- let me -- if I could step  
15 back for one second. Hawk was the primary funder of Stream and  
16 had a security interest over everything at Stream. When Hawk  
17 contributed that debt and those rights to SeeCubic, one of the  
18 things --

19 THE COURT: Let me ask -- hold on a minute.

20 MR. CAPONI: And this is shorthand.

21 THE COURT: Hold on.

22 MR. CAPONI: Yes.

23 THE COURT: Hold on. Back up a minute. You told me  
24 that Stream -- Steam, right? The Debtor Stream was just a  
25 holding company and had no operations. It was just a holding

1 company for all these other subsidiaries.

2 MR. CAPONI: Correct.

3 THE COURT: So what did you -- what did you fund  
4 Stream TV to do? I mean, it was a non-operating company. What  
5 did you loan -- you, meaning Hawk -- loan them money for?

6 MR. CAPONI: Well, Stream was the primary vehicle  
7 through which third parties made an -- when I refer to Stream,  
8 I'm referring -- I was referring to it as the family. But to  
9 be technical, the Stream entity that is the Debtor was the  
10 vehicle through which funding was raised. That money was then  
11 downstreamed to the operating entities.

12 And in certain instances, Hawk -- I'm not sure about  
13 SLS, but Hawk funded directly past Stream down to the SeeCubic,  
14 B.V., level as well. And in exchange for the totality of that  
15 funding -- there were 18 different notes -- when you wrap them  
16 all together, Hawk had a security interest with self-help  
17 rights, et cetera, over all of the assets in the Stream family,  
18 from top to bottom, from the Stream parent level to the  
19 SeeCubic, B.V., level, and had pledge rights and -- these are  
20 very voluminous documents.

21 THE COURT: Okay.

22 MR. CAPONI: But when those rights were contributed  
23 to SeeCubic, Hawk received a commensurate level of protection  
24 at the SeeCubic level, meaning if there was a default on the  
25 underlying notes or the notes between SeeCubic and Hawk, Hawk



1 would have the right to basically step in and be out back in  
2 position as the first lien, you know, priority secured Creditor  
3 with pledge rights and everything else.

4 And so that's what Hawk -- what SeeCubic gave to Hawk  
5 in exchange for Hawk contributing the notes, among other  
6 things, was the right to be what is called the collateral  
7 agent. And that is to exercise all of SeeCubic's rights under  
8 those 18 notes that I referred to a minute ago.

9 THE COURT: Okay. So let's see if I understand it.  
10 Hawk and maybe SLS contributed whatever security for all of  
11 their claims against the Stream family into SeeCubic. And in  
12 exchange for that, SeeCubic also gave notes or however it was  
13 documented where there was a default -- and I don't know who  
14 the default would be by, because you didn't tell me that.  
15 There was a default, then all the rights would then actually --  
16 I'm going to use the word revest. That might not be the proper  
17 terminology. But they would go back, revest back in Hawk,  
18 correct?

19 MR. CAPONI: Yes. At a high level, Your Honor. And  
20 the default was if the omnibus agreement was not fully  
21 implemented or invalidated, that triggered a default. So when  
22 the Supreme Court -- there was a definitive default when the  
23 Supreme Court invalidated the omnibus agreement. That then  
24 triggered Hawk's rights as collateral agent.

25 THE COURT: And it went back to -- I'm going to say

1 it went back. So now, because that agreement is now no longer  
2 effective, all of the rights that Hawk had originally rest with  
3 Hawk as the collateral agent, correct?

4 MR. CAPONI: Correct. Yes, that's -- I think that's  
5 correct.

6 THE COURT: So what rights if any does SeeCubic have  
7 at this point?

8 MR. CAPONI: Well, the rights that Hawk is  
9 exercising, those rights still belong to SeeCubic. We are --  
10 Hawk is just exercising them as the collateral agent. So under  
11 the agreement, Hawk can enforce the notes, the 18 notes, in its  
12 own name or it can enforce them in the name of SeeCubic. This  
13 was litigated --

14 THE COURT: And -- right. And they can be enforced  
15 against the entire -- I'm going to say Stream family. Or  
16 whatever collateral was pledged, correct?

17 MR. CAPONI: Correct.

18 THE COURT: Okay. And that hasn't happened yet.

19 MR. CAPONI: Well, it started, Your Honor, when,  
20 after the Supreme Court decision, all the various notices to  
21 exercise the pledge rights, to marshal -- there's an obligation  
22 where all they need to do is issue a marshalling directive to  
23 have all the assets put in one location. And that was  
24 exercised. And so it became sort of a jump ball at that point.

25 We exercised our secured Creditor rights to take

1 possession of the collateral. The collateral always remained  
2 at SeeCubic, B.V. That has always been the operating entity.  
3 So it didn't matter when Stream had the "assets" or when  
4 SeeCubic, Inc., got the assets, everyone kept SeeCubic, B.V. in  
5 place. And that was the operating entity.

6           So from my perspective, when we issued -- my client  
7 issued the marshalling directives and the pledge rights under  
8 its secured agreements, it took possession of those assets.  
9 Title, it had not taken possession of because it had not  
10 completed an Article 9 sale. But as far as possession, 9/10ths  
11 of the law possession, those assets, including the bonding  
12 equipment, belonged to the secured Creditors. I know the  
13 Debtor disagrees with that, but that's our position.

14           THE COURT: Okay. So your position is that title was  
15 with SeeCubic, B.V., and that the secured Creditor had  
16 exercised his right of possession. Okay.

17           MR. CAPONI: Correct.

18           THE COURT: Okay. And so you then would be in the  
19 same position as in Fulton County, where you -- you, meaning  
20 SeeCubic through its collateral agent, Hawk -- had possession  
21 pursuant to a secured Creditor's right. And therefore, you  
22 don't have to turn it over because you had a right. You  
23 basically were maintaining the status quo. Is that your  
24 position?

25           MR. CAPONI: Your Honor, I think that's correct. But

1 again, I would defer to Mr. Mazza on that because I am not a  
2 bankruptcy lawyer. He is. And I've never read that case and I  
3 suspect he has. But from the argument I can follow, it sounds  
4 correct.

5 MR. MAZZA: Yeah. Yeah. If I can interrupt. And  
6 thank you, Mr. Caponi, for clarifying some of the record there  
7 with respect to what happened in the Court of Chancery. And  
8 yeah, I agree with that position, Your Honor.

9 THE COURT: Okay. Okay. So obviously, I'm going to  
10 have to have an evidentiary hearing, because the Debtor's  
11 position is you didn't do that, and that the Debtor is the  
12 owner. And your position is you did exercise. And that would  
13 go to issues relating to whether there was a violation of the  
14 stay or not. Okay?

15 And also, that would go over to turnover actions,  
16 because turnover actions relate to certain things. And that  
17 would also affect whether there's a turnover action. But I  
18 will say, counsel, that to the extent -- and there is a  
19 distinction between, obviously, the various entities, the  
20 non-Debtor various entities and the Debtor entities.

21 But I have to acknowledge and everybody has to  
22 recognize that part of the Debtor's assets are its interests in  
23 the companies who had interest. It's a holding company.  
24 That's how it was described. And that the holding company's  
25 interests, however they may flow, those interests are property

1 of the estate. And to the extent they're property of the  
2 estate, they're related to -- and there may be some  
3 consequences that, you know, the stay can apply to.

4 Yes, they're not in bankruptcy. But there are often  
5 third party beneficiaries -- I'm going to use third party, but  
6 that may not even be the correct -- but in my mind, that's how  
7 they work -- that there are related parties that may get to  
8 have the benefit of that because they serve to the benefit of  
9 the Debtor who is in bankruptcy.

10 So I'm hearing two different things. One is that  
11 this is not the Debtor's property. This is actually property  
12 of an entity that the Debtor, through one of its subsidiaries  
13 or part of its family, holds title to. That's a different  
14 issue than if the Debtor actually owns it and it belongs to the  
15 Debtor directly. Those are all different things that I have to  
16 consider in both whether there's a violation of the stay or  
17 whether there is a turnover, whether turnover is appropriate.

18 Okay. I get that. And I'm sorry, because counsel, I  
19 started -- I didn't ask any questions to Debtor's counsel  
20 because I didn't have any conflict. So I don't want you to  
21 think that I'm just questioning you and didn't question him.  
22 But I only had one side. And now that I have a different side,  
23 I'm trying to parse through the difference. Okay?

24 I'm sorry, counsel. Where did I -- I think I  
25 interrupted you when I started asking, well, wait a minute, who

1 owns this stuff? You can continue with your argument, Mr.  
2 Mazza. I apologize. Go ahead.

3 MR. MAZZA: No apology needed, Your Honor.  
4 Appreciate the colloquy and Mr. Caponi helping clarify some of  
5 the issues. Hopefully, that was helpful. So I think we're --

6 THE COURT: It was very helpful.

7 MR. MAZZA: Where we're going next is that on Fulton,  
8 I understand what Your Honor is saying with respect to what the  
9 Supreme Court had to say there. I think it's important in the  
10 context here to understand really, I think, how the court  
11 looked at why it came out, you know, the way it did as there  
12 not being a stay violation in that case.

13 And that putting aside who is rightfully or not  
14 rightfully possessing the property, the bottom line is if  
15 somebody has property and a secured creditor has interest in  
16 it, what needs to happen to the secured creditor one way or the  
17 other is that it needs to get adequate protection.

18 And where I was going, Your Honor, is that we did try  
19 to engage in a dialog on that discussion, based on pretty  
20 simple requirements to address adequate protection, just to try  
21 to reach a resolution that would be acceptable amongst the  
22 parties and clearly cut against any allegation that there's  
23 some kind of willful violation of the automatic stay.

24 But when counsel to Debtor can't provide us with any  
25 proof of insurance, any sort of details about what they intend

1 to do to the property, that's pretty telling in our view as to  
2 the gamesmanship that's going on here. And so I think that if  
3 Your Honor is thinking of any kind of interim relief at any  
4 point in time here, that those are going to be important  
5 requirements to include with anything that might be decided to  
6 relate to the bonding equipment. And so I really would  
7 emphasize that as part of the overall package of what we're  
8 looking at here.

9 And moving on from the bonding equipment, there's a  
10 few things that I'll get to around sort of this urgency the  
11 Debtors have tried to create around this with purchase orders  
12 and the like. And again, I know this isn't an evidentiary  
13 hearing, but there's been the appearance of this entity called  
14 Visual Semiconductor, Inc., which we've laid out in our papers.

15 And this entity, apparently, is a party to these  
16 pressing purchase orders that the Debtors are --

17 THE COURT: What's the name again, counsel?

18 MR. MAZZA: Yeah. The name --

19 THE COURT: Visual what?

20 MR. MAZZA: Semiconductor, Inc. It's VSI, is the  
21 acronym.

22 THE COURT: Okay.

23 MR. MAZZA: And so --

24 THE COURT: Yeah. Okay.

25 MR. MAZZA: So this entity --

1 THE COURT: Okay. I've heard that.

2 MR. MAZZA: -- it is --

3 THE COURT: I note VSI. Okay. You believe this  
4 entity is what?

5 MR. MAZZA: Not to be confused with VTI, which was an  
6 entity from a previous bankruptcy case that was involved in  
7 running the same kind of "cherry-picking" exercise. And in the  
8 previous bankruptcy, when Judge Owens became wise to what was  
9 going on there, she did bar Stream from filing for bankruptcy  
10 for a year.

11 And I know they're going to try and they have been  
12 trying to distinguish things this time because of vindication  
13 from the Delaware Supreme Court on a decision nine months ago  
14 on the omnibus agreement. But again, that's just not the full  
15 record. They didn't file for bankruptcy when that decision  
16 came down.

17 No, they fought tooth and nail in litigation in the  
18 Court of Chancery for nine months to evade secured Creditors  
19 and their exercise of remedies that Mr. Caponi artfully went  
20 through as to what was happening. And when the shoe was about  
21 to drop, they filed again. And that's why we're here before  
22 Your Honor.

23 And I would say that, you know, this alter ego, VSI,  
24 which is owned and operated by, our understanding is, the  
25 principal of the Debtors, Mr. Rajan. And they've put in a



1 purchase order, again, that needs to be urgently performed on  
2 that involves the production of 100,000 units on behalf of this  
3 entity. So Stream is obligated outside of this court approval  
4 process for production of a really outlandish amount of units  
5 of these particular items.

6 And so we have serious questions as to what's going  
7 on with that and if that was manufactured in order to try to  
8 establish that there's something going on with Creditors and  
9 trying to manufacture some claims as they relate to this  
10 alleged automatic stay violation, which again, we don't think  
11 stands up as a matter of law.

12 THE COURT: Counsel, I'm not sure how -- you believe  
13 that -- okay. So this VSI is party to these purchase  
14 agreements. And you believe that they're not real and that  
15 they're only to support claims for violation of the stay with  
16 respect to the bonding?

17 MR. MAZZA: Well, they've certainly created a sense  
18 of urgency around things that they want to perform on these  
19 particular orders in emergency fashion. And the kind of  
20 numbers that are in the orders are just not -- they're just not  
21 achievable in any sort of reality whatsoever.

22 So we have some serious doubts about it. And we've  
23 been in contact with, you know, engineers regarding the same.  
24 And they've never heard of the kind of production that these  
25 really bare bones purchase orders are indicating the Debtor

1 would try to satisfy here.

2 So it's a real headscratcher, Your Honor. And I was  
3 just putting it out there that it does bear this uncanny  
4 resemblance to what they attempted to do in the first -- one of  
5 the first bankruptcy cases that was duly dismissed for bad  
6 faith by Judge Owens.

7 So if they're running the same scheme, which  
8 apparently, they may very well be doing here, because as we  
9 laid out in our papers, there are communications that are also  
10 been going around about the plan to scuttle the equity interest  
11 in Stream and move that all over to VIS, that again, raises  
12 serious doubts about it and we've been in contact with, you  
13 know, engineers regarding the same. They've never heard of the  
14 kind of -- kind of production that these really bare bones  
15 purchase orders are indicating the Debtor would -- the Debtor  
16 would try to satisfy here.

17 So it's a real head scratcher, Your Honor.

18 THE COURT: Uh-huh.

19 MR. MAZZA: And I just put it out there that it does  
20 bare this uncanny resemblance to what they attempted to do in  
21 the first -- one of the first bankruptcy cases that was duly  
22 dismissed for bad faith by Judge Owen. So if they're running  
23 the same scheme, which apparently they may very well be doing  
24 here.

25 Because as we laid out in our papers, there are

1 communications that are also -- been going around about the  
2 plan to scuttle the equity interest in Stream and move that all  
3 over to VSI. That again, raises serious questions as to -- as  
4 to the good faith here.

5 And if there wasn't the track record that is already  
6 part of previous bankruptcy cases, maybe we might not have  
7 questions. But this is almost too coincidental, Your Honor,  
8 for us to not be asking serious questions that go to, really, I  
9 think Hawk's motion that's also on the docket today.

10 I think turning attention to really corporate  
11 authority, and I think Your Honor focused on the right issues  
12 that we laid out in our papers about who's a debtor and who's  
13 not a debtor and whose interest is protected or not.

14 I think though one important point that is also in  
15 Hawk's motion is that when the Technovative entity, the Debtor  
16 entity was filed, there was no corporate authority for Mr.  
17 Rajan to actually initiate a filing for that particular entity.  
18 That corporate authority was vested in the receiver under  
19 Delaware corporate law. And so while we can't control what the  
20 receiver does, Mr. Rajan can't step in and just exercise  
21 corporate authority that did not exist. He was -- he was not  
22 the board. The board was the receiver.

23 And so that is -- that filing was clearly alterverus  
24 (phonetic), and so there's no -- there's been no authority to  
25 file that entity. And you know, that flows down through the

1 structure, but again, doesn't really change the answer as it  
2 relates to the Dutch entities. Because as we went through  
3 those entities, none of which are debtors, they don't have the  
4 automatic stay apply to them. That's clear under the law and  
5 how 362 is written, Your Honor.

6 If they had authority to file, and they didn't have  
7 authority to file Technovative, as I just said, then use the  
8 automatic stay if you want to put the foreign entities in the  
9 bankruptcy and then you can use the stay. But you can't -- you  
10 can't use the stay when it doesn't apply.

11 Now is there a procedure, Your Honor, to extend the  
12 stay to non-debtors? Yes, there is. Is that procedure pretty  
13 hard to be able to satisfy? Of course it is. It's exceptional  
14 circumstances that need to be established to do so. And while  
15 the circumstances are indeed exceptional here, they're  
16 exceptional for all the wrong reasons and don't support  
17 extension of the stay to what Mr. Rajan is trying to accomplish  
18 over in the Netherlands by trying to install himself as the  
19 director in that entity.

20 And it's a dispute that is a dispute of Dutch  
21 corporate law that would be decided under the principals of  
22 Dutch law. So there's no impact on the Debtors. Mr. Rajan is  
23 not a debtor and these are -- this is property outside the  
24 estate.

25 Because if you follow corporate form, which I know

1 these debtors don't have a tendency to want to follow. But  
2 there is a reason why corporate formalities and corporate form  
3 is followed that would apply here such that these entities  
4 should not -- not be -- this shouldn't be any kind of violation  
5 of the stay that's trumped up here. Again, it's all -- it's  
6 all in the auspices of trying to have their cake and eat it too  
7 such that they don't -- they can go -- go down to non-debtors.  
8 Demand assets be returned to them and then not report back to  
9 this Court because they're not operating under any supervision  
10 by this Court.

11 And that falls into the idea that these cases really  
12 deserve to have a trustee appointed, whether that's a Chapter 7  
13 trustee or a Chapter 11 trustee, or just be dismissed outright  
14 because of the acts that have been taken here. But again,  
15 that's part and parcel of what the separate motion is.

16 But to take all of that into context and to say that  
17 this amounts to violations of the automatic stay, Your Honor,  
18 is just not a proper use of the automatic stay. It's a  
19 weaponization of it. We've tried to come to the table to  
20 figure things out. They've decided they just want to litigate.

21 So if they want to litigate, that's fine. But they  
22 have to go to -- they have to come to Your Honor with more than  
23 emergency motions.

24 Third Circuit law requires them to file an adversary  
25 proceeding for turnover. We still have not seen that. They

1 want to go through that, that's fine.

2 We had a long colloquy with Your Honor about  
3 complicated issues, about the property, and what interest  
4 parties have in it. There's a legitimate dispute. They're  
5 trying to say, well, this is all willful violation of the  
6 automatic stay. That's just not how it works, Your Honor.  
7 They've got to go through the proper procedure if it's indeed  
8 their property, if it's something that they're entitled to and  
9 creditors are not left out in a lurch, unprotected by a group  
10 here that their past conduct should certainly be taken into  
11 account in any decision that Your Honor is inclined to make one  
12 way or the other.

13 So with that, Your Honor, I think that covers the  
14 points that I wanted to make, unless you have any other  
15 specific questions for me. I'm happy to cede the podium or  
16 telephonic podium over to whoever else -- I think maybe Mr.  
17 Caponi might have something to add. But that's my presentation  
18 for the moment.

19 THE COURT: Okay. I've got -- you've answered all my  
20 questions. I may be a little more confused than when I  
21 started, but all right. I may have a better understanding, but  
22 I don't have any questions at the moment.

23 MR. MAZZA: Thank you, Your Honor.

24 THE COURT: Okay. And so is there anyone else -- I  
25 think the only opposition that was filed was by SeeCubic for

1 the joinder. I think that was a -- was that a joinder from  
2 Hawk's right? Or am I confusing the motions?

3 MR. CAPONI: I think that's correct, Your Honor.

4 THE COURT: Okay. And --

5 MR. MAZZA: And Your Honor, just -- I'm sorry to  
6 interrupt.

7 THE COURT: No, go ahead.

8 MR. MAZZA: Mr. Mazza. And we did -- the fact that  
9 you mentioned a joinder. Hawk did join in our opposition. We  
10 did join in Hawk's motion as well in our opposition, not to  
11 make it more confusing than it already is. But just wanted to  
12 make it clear.

13 THE COURT: No, I know there were -- right. I saw  
14 those joinders. Does anybody -- is there anything else that  
15 Hawk thinks that I need -- and I'm saying Hawk. I don't know  
16 if it's in its capacity for itself or it's the collateral  
17 SeeCubic, whatever. Does Hawk have anything else other than  
18 what I already heard with respect to the ownership of the  
19 bonding and who has what with respect to why this is not a  
20 violation of the stay?

21 MR. CAPONI: Yes, Your Honor. The only other thing I  
22 would add, Your Honor, is --

23 THE COURT: Who's here? How's speaking?

24 MR. CAPONI: This is Steve Caponi, Your Honor. I  
25 apologize.

1           The only other thing that I would add is again, we  
2 took discovery in the underlying 225 action, you know, which  
3 ended about a week or two before the filing. So the  
4 information we have is fairly current.

5           The -- Mr. Rajan testified, I took his deposition and  
6 the records bore this out, and they submitted some affidavits  
7 to the Court that Stream had no operations since at least 2020.  
8 Mr. Rajan testified that, again, because it was a holding  
9 company. Not only did it not have any operations, it had no  
10 bank accounts. He submitted an affidavit and he testified at  
11 his deposition that starting in 2020, Stream has had no bank  
12 accounts, and it had no bank accounts as to his deposition  
13 about a week or two before this case -- this Chapter was filed.

14           So the notion that this was a company that has --  
15 sorry, not only they had no bank accounts, Your Honor. Had no  
16 bank accounts, had no employees, had no payroll, had no  
17 nothing.

18           The notion that it is on the cusp of fulfilling  
19 orders for hundreds of thousands of units worth hundreds of  
20 millions of dollars is a farce. It just is. I mean, I could  
21 be more polite about it. But it's the same story you've heard  
22 over and over, and they said the same thing in the Court of  
23 Chancery. And when you ask for a purchase order, what you get  
24 is a redacted document through VSI and that's what they've done  
25 here.



1           So they won't tell the Court allegedly who this  
2 purchase orders from because it doesn't exist. And even if a  
3 purchase order existed, it was given at an entity that has no  
4 operations and no bank accounts.

5           There's been no activity in this case. No first day  
6 motions. No -- and if you start with the proposition Stream  
7 had no operating business, anything it does is outside the  
8 ordinary course.

9           So entering into a distributorship agreement, for  
10 lack of a better term, that was disclosed last night for the  
11 first time in Mr. Rajan's affidavit, how that occurred without  
12 Court approval or notice is an anathema to me. How they could  
13 be entering into purchase orders when they had not entered into  
14 a purchase order with anybody for at least the prior three  
15 years. To do so without the Court approval, again, seems to be  
16 a pretty blatant violation of the rule.

17           So I just say when we talk about the equipment and  
18 who owns what, if you don't have a bank account for three years  
19 and you don't have any assets for three years, it's kind of  
20 hard to take the argument with a straight face that they're the  
21 direct owners of this bonding equipment or anything else for  
22 that matter. And that's the last thing I'll say, Your Honor.

23           THE COURT: Counsel, you said that Mr. Rajan had  
24 testified that he had no operations since when?

25           MR. CAPONI: 2020, Your Honor. When the Court of

1 Chancery --

2 THE COURT: Okay.

3 MR. CAPONI: -- moved the assets over to SeeCubic,  
4 Mr. Rajan testified that Stream ceased all operations, had no  
5 employees, what employees existed went to other entities, and  
6 he was -- and there were no bank accounts.

7 Because one of the things in the 225 action, the pur  
8 -- not one of the things, the thing. Was did Stream convert  
9 the debt to equity and in order to do that it needed to  
10 demonstrate that it raised money, so we asked for the bank  
11 accounts. All right. Give us your Stream bank accounts. And  
12 Mr. Rajan told the Court in an affidavit and me in a deposition  
13 that once the assets were moved over into SeeCubic, Stream shut  
14 down all of its bank accounts and in that day in, I think, the  
15 middle of 2020, has never had a bank account.

16 THE COURT: Well, counsel, I'm not quite sure that  
17 means anything. All the assets were turned over to SeeCubic,  
18 of course they had no assets. What are they going to have?  
19 I'm not quite sure that means anything from my perspective,  
20 because if you took all their assets, what do they have left?

21 MR. CAPONI: Your Honor --

22 THE COURT: I mean, that's a whole different issue.  
23 I'm just saying, I'm not sure what you think it will -- what  
24 that means here. I don't know.

25 MR. CAPONI: If I --

1 THE COURT: I mean, it may not mean anything. I'm  
2 sorry, go ahead.

3 MR. CAPONI: Yeah, sure. Your Honor, I just want to  
4 elaborate. I'm not sure how -- that it checks a legal box.  
5 The Debtors are relying very heavily on this notion that we  
6 have this -- you know, we have these purchase orders, et  
7 cetera. And they're trying to portray -- no, don't try.  
8 They're telling Your Honor this case was filed so that Stream  
9 could reorganize and get back in production.

10 And my only point in raising it is, there was nothing  
11 to reorganize because the assets never got returned. So Stream  
12 lost its assets three years ago. Lost its bank account. Lost  
13 its employees. Never regained them. It may hope to get them  
14 back in the future.

15 But the notion they can go from a zero asset, zero  
16 bank account entity to stand in front of Your Honor today and  
17 say they're on the cusp of fulfilling a \$100 million order? I  
18 would just note for Your Honor, this company never turned a  
19 dime in revenue or profit. Its entire lifecycle lived off of  
20 debt.

21 And we would love to see them to have this purchase  
22 order. We would love to see \$100 million come in, but they  
23 make the same promise over and over.

24 And I'm only just pointing out, Your Honor, you have  
25 to learn how to walk before you can, you know, crawl before you

1 can walk and walk before you can run. The testimony is on the  
2 eve of this bankruptcy, this was an infant in the cradle at  
3 best. So the notion that they can now run a marathon if you  
4 just give them bonding equipment is a fallacy. That was my  
5 point in raising it.

6 THE COURT: Right. But counsel, you also have to --  
7 also admit that on the cusp of bankruptcy, they didn't have any  
8 assets. They had all gone to SeeCubic. So how could they  
9 crawl, walk, or do anything if they didn't have their assets?

10 So from my perspective is once they got it at the --  
11 at least on the eve of bankruptcy, a portion had been returned,  
12 perhaps not to them but to their subsidiary because that  
13 agreement was undone. So we're talking about a different  
14 point, different company in terms of what I would be looking  
15 at.

16 Clearly, if they didn't have their assets, they  
17 weren't doing anything. But once they were returned, they  
18 weren't the same company in terms of what they were, a company  
19 with mounts something being returned as to a company where  
20 everything -- all assets had been taken. I can't look at that  
21 and say, well, they're trying to run now. I don't know what  
22 they're trying to -- maybe they are trying to rub because even  
23 though the assets were returned, they may still be crawling. I  
24 don't know.

25 But I'm just saying it just doesn't mean what you

1 think it might mean to this Court, the fact that they didn't  
2 have anything because they had been foreclosed upon, so that's  
3 the only point I'm making.

4 MR. CAPONI: Your Honor, if I could just clarify one  
5 point, Your Honor, the assets have never been returned. The  
6 assets all -- the operating assets all were at the Technovative  
7 level or below. And those assets never went back -- they went  
8 from SeeCubic, Inc to the receiver and they were held by the  
9 receiver prior to the bankruptcy.

10 So those assets -- Stream came into the bankruptcy an  
11 assetless company with the hope of getting its assets back.  
12 That's just my only clarification.

13 THE COURT: Well, wait a minute --

14 MR. CAPONI: Your other points are well taken.

15 THE COURT: Wait a minute. My point is that when the  
16 -- and maybe I'm misunderstanding. When they Delaware Supreme  
17 Court undid whatever it undid, who then had titles to whatever  
18 these assets -- I know they weren't in your position. If they  
19 weren't owned by Stream. It was going to be Technovative or  
20 one of the other companies. And the receiver was only for  
21 Technovative. Technovative.

22 So when that was undone, undone meaning SeeCubic  
23 couldn't -- didn't have -- couldn't have taken these assets,  
24 that they went back to Technovative, right. And at the time,  
25 immediately prior to bankruptcy, those assets were in control

1 by the receiver. And once the bankruptcy was filed, they were  
2 no longer controlled by the receiver, but now controlled by  
3 Technovative. That's my -- how I look at this.

4 MR. CAPONI: Your Honor, you are correct, the way --  
5 so you are correct that the assets -- the title -- as a result  
6 of the supreme court decision, title to the assets always  
7 resided with the non -- the predecessor to SeeCubic, and then  
8 the Court of Chancery was tasked with physical possession going  
9 back in an orderly fashion.

10 That physical possession going back is what I was  
11 referring to, never occurred. It went -- they stayed at the  
12 entity levels and the receiver took possession of Technovative  
13 and everything -- and everything below Technovative by virtue  
14 of Technovative -- everything being wholly owned.

15 So yes, Your Honor is correct that as of the -- the  
16 day -- the minute before the bankruptcy filing, Stream had no  
17 assets. As a result of the bankruptcy filing, the receiver is  
18 out of the way and you could argue that Stream has, you know,  
19 assets again.

20 THE COURT: So Stream doesn't have anything,  
21 Technovative has it. All that Stream has is its interest in  
22 Technovative.

23 MR. CAPONI: Correct.

24 THE COURT: The assets, whatever they are that the  
25 trust -- that the receiver was in charge of remain with the

1 receiver. And now, once the receiver is no longer in place,  
2 then they belong to whoever. In this case it would be either  
3 -- you were saying SeeCubic, B.V. with the receiver was in  
4 control over is no longer in control and the receiver's no  
5 longer in control, then whoever was in control before the  
6 receiver was appointed remains in control.

7 MR. CAPONI: Yeah, so now -- yes.

8 THE COURT: And you guys want to challenge that in  
9 the Netherlands, which is a whole different issue because I  
10 have to find out what in counsel you acknowledge that you can  
11 in fact defend the stay of third parties -- I'm going to call  
12 them third parties to the extent that it's an extraordinary  
13 relief, but it has been done. I'm not saying that I would do  
14 that.

15 But I have -- counsel, I think I've told you that and  
16 this is my apologizing. I had a couple emergency -- I have  
17 some emergencies. I'm going to try to see if someone else can  
18 take care of my 3 o'clock responsibility. I've got about -- is  
19 that 2:58? I've got about seven minutes to get someone.

20 I'm going to put everybody on hold. Do not hang up.  
21 And I will see if I can get someone to cover for me and then we  
22 can just continue without any interruption, okay. Hold on one  
23 second.

24 MR. CAPONI: Thank you, Your Honor.

25 THE COURT: All right. Now, how do I do this?

1 Okay. Counsel, we can continue. I think where we  
2 left was Mr. Mazza was -- or maybe it was Mr. Caponi was  
3 discussing their position with respect to the custom of the  
4 deposition testimony of Mr. Rajan and what that meant with  
5 respect to the alleged violation of the stay, and what assets,  
6 and actually some other points that Mr. Caponi was trying to  
7 make.

8 Is there anything else that we need with respect to  
9 the parties in opposition to the motion for relief from stay?  
10 Anybody else?

11 MR. DEMARCO: Yes, Your Honor. This is Andrew  
12 Demarco from Devlin Law Firm regarding Rembrandt 3D. We filed  
13 an objection in this matter, this was DI 103. We have concerns  
14 regarding our license to our intellectual property among the  
15 creditors. We also seek --

16 THE COURT: Wait a minute. Wait a minute. Wait a  
17 minute, counsel.

18 MR. DEMARCO: Absolutely.

19 THE COURT: You filed an objection -- you filed an  
20 objection to the motion for relief you're saying? I mean, the  
21 motion for violation -- alleged violation of the stay?

22 MR. DEMARCO: We -- it is -- Rembrandt's position is  
23 we do not wish any relief of the stay.

24 THE COURT: Okay. Wait a minute. You filed a -- you  
25 filed -- where's your filing at, counsel?



1 MR. DEMARCO: It is docket entry 103, Your Honor.

2 THE COURT: Oh, so yours was an objection to the  
3 motion to dismiss.

4 MR. DEMARCO: I apologize, Your Honor.

5 THE COURT: That's okay. I see it. I see it. So  
6 right now, we're just looking at the motion for alleged  
7 violation of the stay, but we'll get to the other stuff. I'm  
8 just trying to keep --

9 MR. DEMARCO: I apologize.

10 THE COURT: That's all right, counsel, because other  
11 counsel actually sort of talked about it already, so that's no  
12 -- not -- I get it, because they did kind -- two counsel did --  
13 did discuss briefly the motion to dismiss in connection with  
14 the motion for a finding of a violation. So I'll get to that.

15 MR. DEMARCO: Absolutely.

16 THE COURT: I just want to try to wrap up that.

17 MR. DEMARCO: That's okay, Your Honor. I'm happy to  
18 sit back -- I'm happy to sit back and wait.

19 THE COURT: All right. Thank you, counsel.

20 Okay. So are there any other oppositions, anyone who  
21 wishes to set forth their opposition to the Debtor's request  
22 for a finding that there is -- there was a violation of the  
23 stay and that there is a need for turnover and for -- and they  
24 were also asking for sanctions, I guess. All right. Anybody  
25 else?

1 All right. Hearing no response, I'm going to let --  
2 is there a brief response -- brief, counsel, from debtors with  
3 respect to -- I really need some clarification on this  
4 ownership issue of this bonding equipment.

5 MR. ALEXANDER: Thank you, Your Honor. Vincent  
6 Alexander on behalf of the Debtor. Can you hear me fine, Your  
7 Honor?

8 THE COURT: Yes, I can.

9 MR. ALEXANDER: Okay. I just wanted to clarify a  
10 couple points and it relates to the ownership of the bonding  
11 equipment.

12 First, we attached to our motion the actual purchase  
13 contract which shows that the purchase was in the name of  
14 Stream. So Stream is the entity that purchased the equipment.  
15 There have been no --

16 THE COURT: Okay. Wait a minute, counsel. Wait a  
17 minute. Where is that at? You said you guys filed a motion,  
18 then you filed your supplemental motion. Is it in the original  
19 -- attachment to your original motion?

20 MR. ALEXANDER: Yes, Your Honor.

21 THE COURT: Okay.

22 MR. ALEXANDER: That docket entry 49-1.

23 THE COURT: Yeah, okay. 49-1. Exhibit 1. Okay.  
24 Purchase agreement. Okay. The sales agreement between Stream  
25 TV and I'm not even going to try to pronounce this name.

1 MR. ALEXANDER: Your Honor --

2 COURT REPORTER: This is the Court Recorder. The  
3 Judge got disconnected briefly. She'll be back in a moment.

4 THE COURT: Counsel, I'm back. I guess I have to  
5 have two disconnects before the phone will continue. We're  
6 going to follow a pattern here. I have no clue what that's all  
7 about.

8 So there's a sales agreement between Stream and the  
9 seller which is in Nagano, Japan. I don't even know if I'm  
10 pronouncing it correct, for delivery in China from what I can  
11 gather. And that, counsel, you believe is the stay of  
12 agreement for this bonding equipment?

13 MR. ALEXANDER: That's correct, Your Honor. And the  
14 purchaser of the equipment was Stream TV Networks, Inc, who is  
15 the Debtor in this bankruptcy case.

16 THE COURT: Well, there's a little dispute because  
17 the -- the -- SeeCubic says that it was actually owned by  
18 SeeCubic, B.V. I don't know if there's some other documents  
19 after this, but I know --

20 MR. ALEXANDER: They don't have any --

21 THE COURT: What, counsel?

22 MR. ALEXANDER: They don't have any documents  
23 demonstrating -- they don't have any documents demonstrating  
24 that, Your Honor. There are no documents demonstrating the  
25 transfer that they had from Stream TV Networks to SeeCubic B.V.

1 That's not a disputed issue.

2 THE COURT: Well, they believe it's disputed. I  
3 guess I have to figure out how --

4 MR. ALEXANDER: Well, you can believe a lot, but that  
5 doesn't mean it's actually disputed. So that's one of the  
6 things that they say a lot of things in terms of counsel for  
7 Hawk and SeeCubic. But when you actually look at the  
8 underlying facts, it just doesn't bear out.

9 And that also goes to the point of when you ask about  
10 foreclosure and repossession, to be clear, there has been no  
11 foreclosure completed by Hawk or SeeCubic with respect to any  
12 assets of --

13 THE COURT: So counsel, they -- I think they  
14 acknowledged that there's been no completed foreclosure.

15 MR. ALEXANDER: And there's --

16 THE COURT: I think what they said is that they sent  
17 notices that under the terms of their documents that  
18 constituted foreclosing. I'm assuming they did it under -- I'm  
19 not going to assume anything. They believe they had security  
20 interests and that they executed and foreclosed pursuant to  
21 whatever those rights were as a secured creditor.

22 I was going to say I'm assuming they did use CC  
23 remedies. But I don't know. I could be totally wrong. But  
24 that's --

25 MR. ALEXANDER: But no, I understand. But they never

1 had possession of the, you know, at the time this happened,  
2 they didn't have possession. And I think Mr. Caponi even said  
3 they demanded the share certificates but they never received  
4 them.

5           So they never had possession of the assets and they  
6 certainly today don't have possession of the bonding equipment,  
7 but they're interfering with the Debtor's interest in the  
8 bonding equipment. It seems almost as if they're arguing on  
9 behalf of SeeCubic B.V., but neither of them represent SeeCubic  
10 B.V. with respect to the bonding equipment. That's a  
11 subsidiary of the Debtor. So it seems a little disingenuous to  
12 argue that somehow they have possession, you know, of the  
13 equipment.

14           So it's not like how the supreme court case in which  
15 they're citing. There's no paths of retention because there  
16 was no -- A, there was no foreclosure process, there was no  
17 repossession, and they're not actually in possession. But  
18 they're interfering with the Debtor's possession and that's the  
19 exact point, is that they're interfering with the Debtor's  
20 possession of that bonding equipment, which is integral to the  
21 reorganization process.

22           And I know Your Honor picked up on the fact that  
23 there were no operations while they didn't have the assets, so  
24 I'm not going to discuss that. But prior to that point, they  
25 did have contracts and they did have revenue with companies

1 like Bosh and Google. So you know, there were instances when  
2 they did sell 5,000 units, and so it's not as if this entity  
3 never sold. I mean, it has product it did ship out and it  
4 wants to get back to that, but it needs possession of its  
5 assets in order to do so. So you know, this is not --

6 THE COURT: And when you say -- so who so counsel?  
7 Which entity did this --

8 MR. ALEXANDER: Stream -- Stream TV Networks, Your  
9 Honor, the Debtor.

10 THE COURT: Okay. Okay. So what I'm trying to  
11 figure out is the bonding equipment is actually in possession  
12 of a third party?

13 MR. ALEXANDER: That's correct.

14 MR. MAZZA: You're right, Your Honor. Correct.

15 THE COURT: So it's in possession of a third party  
16 who is willing to turn it over under what conditions?

17 MR. ALEXANDER: The condition for turnover, Your  
18 Honor, is that Patrick Soon (phonetic) at SeeCubic B.V., who is  
19 the -- who leased the space. Apparently, he leased the space  
20 once SeeCubic entities directed the transfer of the property  
21 during the time in which the omnibus agreement was in effect,  
22 for him to authorize it. And he's refused to authorize it  
23 because Mr. Stastny on behalf of the secured entities has said  
24 don't release it to them because it's not their property.

25 THE COURT: So who's property is it?

1 MR. ALEXANDER: It's the Debtor's property.

2 THE COURT: They sent a purchase agreement.

3 MR. ALEXANDER: Correct, Your Honor.

4 THE COURT: Okay. So basically a third party has it  
5 and someone's told the third party -- and the third party is  
6 basically to be indemnified and said you guys figure this out.  
7 I'm not turning this over to that. If there's a problem, I'm  
8 stuck with it. I get that.

9 And now if the lease by -- who was the original party  
10 to the lease?

11 MR. ALEXANDER: Well, Your Honor, if you recall, the  
12 length the omnibus agreement was in effect, SeeCubic took  
13 control of the Debtor's assets, including the downstream  
14 entities, which would include SeeCubic B.V. And once they took  
15 control, they had SeeCubic B.V. enter into a contract with  
16 entity which moved the equipment from the prior location that  
17 it was being housed to this new location.

18 THE COURT: But under the terms of the -- that  
19 agreement is not affective anymore.

20 MR. ALEXANDER: I understand, which is why the  
21 Debtor --

22 THE COURT: How do you unwind this? So how do you un  
23 -- so what was supposed to happen when this -- the assets were  
24 given to -- I'm going to say given, because I'm not -- well,  
25 transferred to SeeCubic. One the Delaware Court said this is

1 not effective because the Class B didn't sign, we have to  
2 unwind. Because that's basically what they were saying, unwind  
3 it, okay.

4 What did the parties -- what did unwind mean? Undo?  
5 What do you think it meant?

6 MR. ALEXANDER: Well, Your Honor, SeeCubic B.V. was  
7 not a party to that agreement, so the assets should have  
8 gone --

9 THE COURT: I mean, not SeeCubic -- right.

10 MR. ALEXANDER: No, no. Understood. I'm talking  
11 about the supreme court in that litigation, so.

12 THE COURT: Right. SeeCubic Inc.

13 MR. ALEXANDER: The supreme court --

14 THE COURT: Right, right.

15 MR. ALEXANDER: But the Supreme Court said the assets  
16 are supposed to go back to Stream. It's clear that the omnibus  
17 agreement was of no effect and that it should be unwound. And  
18 then there's a Delaware Chancery Court order after that that  
19 says the assets are supposed to go back to Stream. It says  
20 Stream should be entitled to have its assets so that it has the  
21 opportunity to repay its creditors. That is the -- they were  
22 supposed to go back to Stream.

23 MR. MAZZA: Your Honor, if I may just interrupt for a  
24 second. The -- there was an order entered by the chancery  
25 court that said if Stream wanted to get back the bonding



1 equipment, it had to post a bond. So that was how the state of  
2 play had been set up after the supreme court issued its opinion  
3 last summer, invalidating the omnibus agreement.

4 As you can imagine, the chancery court -- there were  
5 practical issues in unwinding -- unscrambling the egg. And so  
6 it took, you know, quite some time to figure out how to do  
7 that. Mr. Caponi had explained that the stock was essentially  
8 given back to Stream and Technovative so that they could have  
9 control again. And then the judge -- chancellor put in place  
10 an injunction for Hawk to be able to exercise its remedies for  
11 ten days. And then when that expired, Hawk exercised its  
12 remedies and that got the parties into this 225 action that was  
13 near completion in the chancery court right before the filing  
14 here.

15 So for counsel of the Debtor to say that this is all  
16 supposed to be returned, the chancery court was dealing with  
17 this all on remand and had a receiver in there to deal with all  
18 the practical issues around it, who incidentally put a bonding  
19 -- who recommended to the vice chancellor to put a bonding  
20 order in place, which the vice chancellor thought was a good  
21 idea, which would resemble any kind of adequate protection that  
22 might happen in a bankruptcy court if this were to be turned  
23 over. And so that's where we are.

24 THE COURT: Yes. And now we're in bankruptcy.  
25 Receiver no longer in effect. What does that -- first of all,

1 in bankruptcy, you're going to have to have insurance. That's  
2 just a given. You can't be in bankruptcy and not ensure the  
3 assets of the estate.

4 Assuming that the bonding -- based on that purchase  
5 agreement, and counsel, you're going to have to -- I haven't  
6 seen anything from the other side to the contrary. Because you  
7 said it was owned by SeeCubic B.V. The only document I've had  
8 so far, and maybe you do have some and you're going to point  
9 them out to me. The purchase agreement was with Stream. And so  
10 if the purchase agreement was with Stream, I'm not quite sure  
11 absent some record or document how ownership went to SeeCubic.  
12 Okay? So as far as I am concerned unless you want to show me  
13 something to the contrary. That would be assets of -- the lack  
14 asset of the Debtor -- of Stream TV.

15 And so my question then becomes, okay. If it's the  
16 property of the Debtor, then yes, if you executed on it and it  
17 your properly executed then you don't have to turn it over as  
18 to the turnover action. But if you didn't properly execute on  
19 it, you may have two things you're facing. Yes, you may have a  
20 turnover action, but if you haven't properly exercised control,  
21 you're violating the stay.

22 So the fact that on their -- on the Supreme Court  
23 decision a turnover action is required, that's if you are  
24 lawfully -- and you didn't use the word lawfully in possession  
25 but you were in possession and you were maintaining the status

1 quo, then obviously, you didn't violate the stay. But if  
2 you're not in possession and you don't have a right to be in  
3 possession, you're not maintaining the status quo. You're  
4 violating the stay.

5 I don't know which one of it is. I don't, you know,  
6 I see documents that say they own it. And you're saying that  
7 even if they own it, we executed against it so we're properly  
8 exercising control over it. But it's with a third party.

9 So my question is did you send something to the third  
10 party saying we have control over this. This is ours. That's  
11 really where this is going to go because it's no different if  
12 something was with a bailiff that they have that you have to  
13 send something to them saying, hey, this is mine. Don't give  
14 it to anybody else. I don't know if you did or did not do  
15 that.

16 And if you didn't do that, it seems to me on a high  
17 level looking at this, you don't have a right to do anything  
18 with this thing yet. And if you don't, whether they file a  
19 turnover action or not, there's some issues about whether  
20 that's a violation of the stay. I don't know. I don't know.  
21 I don't have a record.

22 And I'm -- obviously we need an evidentiary record.  
23 I'm not going to sit here and say, oh, I find it without a  
24 record. But I'm just saying just from discussion with counsel,  
25 logically for me, is that I see a purchase agreement and the

1 only evidence I have is this purchase agreement which is  
2 between Stream and the seller from Japan who I'm not going to  
3 try to pronounce, for the bonding equipment.

4 I don't have anything saying that it went to this --  
5 now, maybe Stream sent it to SeeCubic B.V. I don't know how it  
6 got to SeeCubic B.V. And what I'm hearing is that before  
7 SeeCubic Inc took over, there was a lease between someone else  
8 and a storage unit and it got transferred to a different one  
9 under a lease that I don't know is valid or invalid or I don't  
10 know what it means because SeeCubic Inc -- what is it, who  
11 everything was transferred to, one says that omnibus agreement  
12 was void or invalid, never had a right to do anything.

13 So you know, it gets a little complicated for me.  
14 I'm trying to unwind what does the unwinding mean. And so  
15 that's on a high level for me is what does that mean as an  
16 initial -- initial matter.

17 I get the concern about insurance. That's a  
18 requirement. So whether the chancery court ordered it, you  
19 have to insure assets in bankruptcy. So that's nonnegotiable.

20 The other issue that I think I heard was, well we  
21 want to know how they're moving equipment, who's working on it,  
22 and all that other stuff. As a secured creditor, we have that  
23 right to ask for that. That has nothing to do with whether you  
24 exercised your rights. It has to do with whether the  
25 collateral securing your loan is going to be protected. That

1 has nothing to do with this claims about violating a stay or  
2 any of that stuff. That is just simple bankruptcy requirements  
3 and issues. So even if you tell us to turn it -- to release it  
4 to them, that they don't have to insure this. They should be  
5 insuring it no matter where it is because it's an asset of the  
6 estate, and so that's how I'm looking at this.

7 Counsel, is there anything that you have for me that  
8 -- all I have is this purchase agreement that shows it was  
9 owned by SeeCubic CV? I think that's who you said owned it?

10 MR. CAPONI: Yes, Your Honor. Steve Caponi again.  
11 Do I have anything? No, that's what discovery is for. We  
12 don't control -- we don't have access to the records of  
13 SeeCubic B.V. other than --

14 THE COURT: Well, then on what basis then are you  
15 asserting that they're the owner?

16 MR. CAPONI: Because during the course of the --

17 THE COURT: You're telling me -- okay.

18 MR. CAPONI: During the course of the 225 action and  
19 the receivership, Your Honor, we had multiple discussions with  
20 the receiver, and if you recall, there was a motion practice  
21 over who should take possession of the equipment. And it was  
22 all parties to the receiver who had access to the company and  
23 the individuals, as well as Stream, all acknowledged that the  
24 equipment belonged to SeeCubic B.V.

25 And that's why the court entered -- the Court of

1 Chancery entered a specific order after the receiver  
2 recommended that it was appropriate for Stream to get access to  
3 it if it complied with certain requirements, including posting  
4 a -- I think it was a three or four-million-dollar bond, that  
5 it got transferred.

6 So we litigated this issue. Stream never once said  
7 this belongs to me. Everyone acknowledged it was in possession  
8 of SeeCubic B.V. My client never controlled SeeCubic B.V.

9 THE COURT: In possession doesn't mean --

10 MR. CAPONI: Sorry, owned by.

11 THE COURT: Counsel, in the --

12 MR. CAPONI: Owned by, Your Honor.

13 THE COURT: Right.

14 MR. CAPONI: Owned by SeeCubic B.V.

15 THE COURT: Everybody acknowledged -- there's some  
16 document that says we acknowledge that it's owned by SeeCubic  
17 B.V. or it's in possession of SeeCubic B.V.? Two separate  
18 issues.

19 MR. CAPONI: Owned, Your Honor, and again, this is  
20 why, you know, an evidentiary hearing -- there are a lot of  
21 complicated issues. There are very divergent views as to the  
22 history. It's a long history. You're looking at a purchase  
23 order from almost a decade ago. Two bankruptcies, you know, an  
24 omnibus agreement, and multiple defaults of secured debt, you  
25 know, and many years of operating this company, a lot has

1 changed.

2 Title of this as our understanding and my belief is  
3 with SeeCubic B.V. We get some targeted discovery from  
4 SeeCubic B.V. and the Debtors, we'll prove it at an evidentiary  
5 hearing. And Your Honor will find out as between these two  
6 parties whether there's a real purchase order or a fake order  
7 or whether they're, you know, who owns this or who doesn't.

8 THE COURT: Well, you mean you think that -- you  
9 believe that this -- that what's presented here is a fake  
10 purchase order?

11 MR. CAPONI: The purchase order? Yeah, Your Honor.  
12 We absolutely believe that there is no legitimate third party  
13 that ordered \$100 and some million worth of TVs.

14 THE COURT: No, no, no, no. No, no, no, no, counsel.  
15 I'm talking about this sales agreement.

16 MR. CAPONI: No, no, the sales agreement.

17 THE COURT: Yes.

18 MR. CAPONI: No, no, I'm not contesting the sales  
19 agreement, but it's from 2015. A lot has transpired since then  
20 and we don't -- we -- it is my understanding and I believe  
21 Stream conceded this point, we were told this by the receiver  
22 that -- exactly how or when or why, I don't have the answer  
23 because it was never in dispute, that SeeCubic B.V. owns this  
24 equipment. That's why SeeCubic B.V. has been paying for it and  
25 paying the rent on it and renting the warehouse. No one

1 contested that. It wasn't until they filed this motion a  
2 couple days ago that I've heard a different story. So I can't,  
3 you know --

4 THE COURT: But counsel, you were also -- but my  
5 concern also was that there was an original lease between  
6 somebody and someone, and then that equipment -- maybe that's -  
7 - maybe that's wrong, that the equipment was moved to a  
8 different location under a different lease by SeeCubic B.V.,  
9 right? Or was it SeeCubic Inc? Who has the current lease?

10 MR. CAPONI: It's -- well, so make sure I'm  
11 understanding your question, Your Honor. The equipment is  
12 owned. It is put in a warehouse and that space is leased. And  
13 there was a -- SeeCubic B.V. had the original warehouse and I  
14 believe a few months ago the owner of that warehouse was  
15 converting the building or something, and SeeCubic B.V. leased  
16 new space and moved the equipment into the new space.

17 THE COURT: Okay.

18 MR. CAPONI: So if you're referring to real property  
19 lease, that was SeeCubic B.V.

20 THE COURT: SeeCubic B.V. is the party to the lease.  
21 Okay. And the Debtor has an interest in -- the Debtor has an  
22 interest -- at least Technovative has an interest in SeeCubic  
23 B.V., right?

24 MR. CAPONI: Indirectly, yes.

25 THE COURT: What do you mean indirectly? Don't they



1 own the party that -- the general partner who owns the interest  
2 in the Netherlands entity that owns SeeCubic, do they not own  
3 the interest in all those things? So yes, they're not  
4 directly, but they own the -- they're the -- 99 percent .9,  
5 they're respectively the owners of the company who -- they're  
6 the owners of the --

7 MR. CAPONI: Of course, Your Honor. I just meant to  
8 insinuate --

9 THE COURT: Right.

10 MR. CAPONI: -- they were not the direct owner, but  
11 there are some levels in between.

12 THE COURT: Right.

13 MR. CAPONI: I don't recall how many, but yes,  
14 ownership wise, they eventually get there.

15 THE COURT: All right. So what I'm trying to  
16 understand is Technovative owns through its ownership interest  
17 or the ownership interest of the ownership interest is saying  
18 that we -- that some -- that they directed someone to allow the  
19 property to be returned to or released to Stream. And so what  
20 they're saying is that our interest in this interest in this  
21 interest, we -- is being interfered with and we have an  
22 interest in that asset through these other parties, and that  
23 someone's directing the -- someone's directing SeeCubic B.V.  
24 not to release it to Stream. Isn't that sort of what I'm  
25 hearing?

1 MR. CAPONI: So Your Honor, yeah. That's -- that is  
2 what the Debtor's position is. My client, to be clear, Hawk,  
3 is not instructing anybody to do or not do anything. We're  
4 here because we were accused of hiding this equipment and we're  
5 not and -- yeah. Go ahead, Your Honor. Sorry.

6 THE COURT: So why isn't somebody just finding --  
7 what's the problem? Let's cut to the chase, why isn't it being  
8 given to Stream?

9 Okay. I get the insurance issue. I get the  
10 insurance. They have to insure it. As a secured creditor with  
11 a security interest, you want something in addition, correct?

12 MR. CAPONI: Yes, we want adequate protection. Yes.

13 THE COURT: Okay. And adequate protection means that  
14 you believe you have possession of it and because you have  
15 possession, it shouldn't go back to them. But I don't get how  
16 the secure creditor who doesn't have possession because it's  
17 with a third party and you don't control SeeCubic B.V., how you  
18 get to say anything. You can always ask for adequate  
19 protection.

20 MR. CAPONI: Your Honor --

21 THE COURT: But I'm not quite sure how you get  
22 through all of that.

23 MR. CAPONI: Yeah, I -- Your Honor, I think maybe --  
24 maybe everyone got the cart before the horse on this one.

25 THE COURT: Yes, you did.

1 MR. CAPONI: Okay. Let me -- let me step back for a  
2 second. SeeCubic B.V., as far as I'm -- my client Hawk and I  
3 am concerned, SeeCubic B.V. -- why is SeeCubic B.V. not turning  
4 anything over? SeeCubic B.V. is the operating entity where  
5 these employees reside and this is where they get their  
6 paychecks and this is their future. They absolutely detest Mr.  
7 Rajan, and don't trust him. They've been burned by him. They --

8 THE COURT: What does that have to do with anything?  
9 I mean --

10 MR. CAPONI: It has to do with your question. Why  
11 are they not turning it over? And why are they taking steps in  
12 there? Because they feel like their company's being fleeced by  
13 this guy, not at my client's direction. They're human beings  
14 with their own brains and they're in an entity. We're being  
15 accused by the Debtor of orchestrating that.

16 What I'm saying is I'm not orchestrating it. You  
17 asked me why they're doing it. I told you why they're doing  
18 it. Whether there's legal color to do that, that's I guess for  
19 the Netherlands court and this Court to concern. I can only  
20 tell you as a secured creditor, I'm not telling them to do it.  
21 I'm not violating any stay for a whole host of reasons. And if  
22 at some point that entity is told to turn it over, we want that  
23 turnover to be -- only occur after we're, you know, we have  
24 adequate protection.

25 I'm only responding -- this is not a turn -- as Mr.

1 Mazza indicated, this is not a turnover motion. This isn't an  
2 adversary proceeding where the Debtor --

3 THE COURT: Even if it is an -- even if it is or is  
4 not an adversary, you're not in possession so I'm not quite  
5 sure whether there's a motion, an adversary or whatever. Yes,  
6 on the 7001 turnover or adversary matter. It doesn't matter  
7 because you're not in possession.

8 MR. CAPONI: Your Honor, I don't know why we're here.  
9 We're not in possession. I don't -- my client does not have  
10 it. It's not sitting on the Debtor's assets, but the Debtor  
11 filed a motion accusing my client of interfering with its  
12 assets. So the Court's point --

13 THE COURT: Because they believe --

14 MR. CAPONI: You're right.

15 THE COURT: Yeah. That's because they believe --  
16 whether you deny it or not, they believe that you are  
17 orchestrating this.

18 MR. CAPONI: Your Honor --

19 THE COURT: That's how I'm seeing it. Now, I don't  
20 know who is or isn't. You're saying you don't have -- your  
21 client is not involved in this at all. This is solely at  
22 SeeCubic's direction and then you mentioned some names. I  
23 don't know who these people are, I mean, and nobody's -- I  
24 heard Mr. Stastney? Who's he?

25 MR. CAPONI: Stastney. Mr. Stastney was the

1 individual who used to be at Stream and then ran SeeCubic, Inc.  
2 And Your Honor, I've had -- I, my firm, has had zero  
3 communication with the individuals at SeeCubic B.V. to ask them  
4 why they are doing or not doing what they're doing and I guess  
5 discovery will bear that out as well, but it's not at my  
6 client's direction.

7 THE COURT: Okay. But Mr. Stastney, did -- was part  
8 of SeeCubic Inc who everything was transferred to, correct?

9 MR. CAPONI: Correct. And I should also mention, he  
10 is, I believe, a director -- he is the director of SeeCubic  
11 B.V. as well. So I think one of the issues that the employees  
12 of SeeCubic B.V. has is that Mathu Rajan proports to be the  
13 director, but in the registry over there, which is the official  
14 document, it's Mr. Stastney so they're questioning who they're  
15 supposed to take direction from and I think that's the purpose  
16 of the proceeding over there. But I'm not involved in it.  
17 That's just my understanding.

18 THE COURT: And who filed the proceedings in the  
19 Netherlands?

20 MR. CAPONI: I don't know if Mr. Mazza knows. I do  
21 not know.

22 THE COURT: Well, who filed the --

23 MR. MAZZA: Yeah, this is Mr. Mazza. It is the -- it  
24 was the law firm Brisbois who brought a summary proceeding in  
25 connection with the --

1 THE COURT: On whose behalf? Who all --

2 MR. MAZZA: If you give me a --

3 THE COURT: Yeah, you go ahead and I'm going to --  
4 I'm going to do something in a minute. We'll get to that.

5 MR. ALEXANDER: Your Honor, this is Vincent Alexander  
6 on behalf of the Debtors. In terms of the lawsuit, I believe  
7 what you're referencing is at docket entry 90-1.

8 COURT REPORTER: I think the Court dropped off for a  
9 minute.

10 MR. ALEXANDER: Okay.

11 THE COURT: Hello? Counsel?

12 MR. ALEXANDER: Your Honor, this is Vincent  
13 Alexander, counsel for the Debtors. The lawsuit, it's -- we  
14 filed it. It's docket entry 90-1. And parties to that lawsuit  
15 are Mr. Stastney, SOS Holdings 6, LLC, Hawk Investment Holdings  
16 Limited, SeeCubic, Inc, and then some of the Stream  
17 subsidiaries that are directly and indirectly controlled by the  
18 Debtors.

19 So for counsel to sit here and say that their clients  
20 aren't involved, it just doesn't bear out by the document that  
21 they actually filed.

22 MR. MAZZA: Your Honor, it -- Jim Mazza, here. So  
23 just to be more precise, the Dutch entities that their party  
24 would be the Alterate Coopertif (phonetic), if you have the  
25 chart handy, Stream TV International B.V., and SeeCubic B.V.

1 So all are non-debtor entities. Just the --

2 THE COURT: Counsel, I didn't ask if they were  
3 debtors. I asked who -- because counsel said we aren't  
4 involved in that. We don't know anything. This is Mr.  
5 Stastney and SeeCubic B.V. filing in the Netherlands. And now  
6 I'm hearing that it's more than that. So of your clients all  
7 so whoever involved in the litigation in the Netherlands? Yes  
8 or no?

9 MR. CAPONI: Your Honor, this is Steve Caponi again.  
10 I will take counsel's word. It was not my understanding that  
11 Hawk was involved in the Netherlands litigation. I thought it  
12 was actually filed by the employees, but again, I'm not  
13 involved in it. My client had no involvement in telling them  
14 not to turn over the equipment. If it was named as a defendant  
15 in a proceeding, news to me, but okay.

16 THE COURT: You didn't say this -- counsel, are they  
17 defendants? Plaintiffs? I mean, if they're defendants,  
18 they're defendants. I asked who brought it. What is this at?

19 MR. MAZZA: I think that --

20 MR. ALEXANDER: Your Honor, they're plaintiffs. It's  
21 documented in 90-1.

22 THE COURT: You know what? Where's the -- where's  
23 the document. Just point me to the document.

24 MR. ALEXANDER: 90-1.

25 THE COURT: 90 -- oh, that's the Exhibit --

1 translated. Is that what we're talking about?

2 MR. ALEXANDER: That's correct, Your Honor. And  
3 that's the matter that they're trying to set for hearing -- or  
4 is set for hearing on the 20th. And if you look on the first  
5 page, with regards to plaintiffs, if you look at 4 through 7,  
6 SeeCubic Inc is in 4, Hawk is in 5, SLS is in 6, and Mr.  
7 Stastney, individual is in 7, and they're all the plaintiffs.

8 MR. CAPONI: I stand corrected.

9 THE COURT: Okay, so the -- yeah, I mean, so --

10 MR. CAPONI: I was unaware, Your Honor.

11 THE COURT: Okay.

12 MR. CAPONI: But a document is a document. That's  
13 why I deferred to --

14 THE COURT: Right.

15 MR. CAPONI: When you asked me, I said I'd defer to  
16 Mr. Mazza because I wasn't sure, and now we have the answer.

17 THE COURT: Yes. So all of these entities that are  
18 over here in bankruptcy saying that whatever's going on with  
19 these companies that the Debtor clearly sees is a holding  
20 company for all of these companies. Nobody's disputing that.  
21 Nobody's disputing that the Debtor's interest in these holding  
22 companies may be something that it needs to -- assuming, and  
23 I'm not making any finding. Assuming that the Debtor gets the  
24 opportunity to reorganize, the Debtor's clearly saying we need  
25 these entities.



1           Someone's filing in the Netherlands some issues with  
2   respect to these debtor's interest in these exact properties  
3   that the Debtor has an interest in. And I know it's against  
4   Mr. Rajan, I think is what I can gather is that to a point  
5   somebody else as they're attorney, and they want -- what do  
6   they want to do? And then they talk about Ultra-D Cooperative  
7   UA having a principle business in somewhere as purportedly  
8   represented by Mr. Rajan. Okay.

9           So what are they -- what are they trying to do? The  
10   court issues --

11           MR. MAZZA: If I may, Your Honor. So the issue --

12           THE COURT: Who's speaking?

13           MR. MAZZA: It's Mr. Mazza again, Your Honor.

14           THE COURT: Uh-huh.

15           MR. MAZZA: So the issue is it's an issue of  
16   compliance with Dutch corporate law and determination as to who  
17   are the -- who is the board at these non-debtor entities. And  
18   there have been issues with regard to legal notice and the like  
19   that would be applicable under Dutch law that the parties don't  
20   believe have been complied with.

21           And so really what this particular proceeding was  
22   brought to do was to implement a status quo so that parties  
23   could figure out where to go from here.

24           What Mr. Rajan has done is held himself out through  
25   what we're advised by Dutch counsel have not been acts that

1 have complied with Dutch law at these non-debtor subsidiaries  
2 and therefore there's a dispute as to whether he -- as an  
3 individual, has the control to hold himself out as such.

4 MR. ALEXANDER: Your Honor, this is Vincent Alexander  
5 for the Debtor. I mean, that just really begs -- the question  
6 is what do these creditors of the Debtor, what is their  
7 interest at the downstream entities in terms of trying to  
8 impact and effect how the Debtor runs these entities and who  
9 the Debtor appoints. I mean, it's clear that there's never  
10 been any transfer of the stock ownerships.

11 And so upon the bankruptcy filing, all of these  
12 management and control rights belong to these debtors, whether  
13 it's Stream or Technovative, yet they're trying to usurp that  
14 process by going to the Netherlands. You know, these same  
15 entities that in individual are before this Court are trying to  
16 go to the Netherlands and take advantage of some proceedings  
17 over there, where they can then gain control over SeeCubic B.V.

18 And if you recall, Your Honor, they're arguing that  
19 SeeCubic B.V. and if you recall, Your Honor, they're arguing  
20 that SeeCubic B.V. owns the bonding equipment. So then they're  
21 trying to seek and exert control over the bonding equipment.

22 And so this is all an end run around the bankruptcy  
23 in terms of what they're trying to do. And on one hand, they  
24 claim that they have no knowledge of what's going on. But then  
25 when documents come out, oh, I guess that is happening.

1           That's the Debtor's concern is that they're trying to  
2 strip the Debtor of its management and asset rights through its  
3 subsidiaries. And we believe that's improper and it does  
4 impact the estate, and that shouldn't go forward.

5           MR. MAZZA: And Your Honor, if I may just briefly. I  
6 think the point --

7           THE COURT: Who is -- wait a minute. State your  
8 name.

9           MR. MAZZA: It's Mr. Mazza. It's Mr. Mazza again,  
10 sorry, Your Honor. Is that it's really a question of  
11 compliance with Dutch law. And I think the Debtor is taking a  
12 really loose view of how things work in a way that we filed --  
13 we filed for bankruptcy. I've already gone over the argument  
14 that Mr. Rajan had no authority to file Technovative. And then  
15 he wants to go down the chain and assert his authority which is  
16 contested as a matter of Dutch law at a Dutch entity.

17           There are employees down there who don't know what  
18 their fiduciary duties are because of the issues around --

19           THE COURT: Well, as to the employees, their  
20 fiduciary duty is to the company.

21           MR. MAZZA: Right, right.

22           THE COURT: So now you're stating that Mr. Rajan has  
23 asserted that he's in charge. Somebody else claims that  
24 they're in charge. And this all needs to be cleared up because  
25 what?

1 MR. MAZZA: It needs to be cleared up so -- it needs  
2 to be cleared up --

3 THE COURT: But that's to whose benefit? To whose  
4 benefit? Because I'm not understanding why Hawk or any of the  
5 other parties -- what's their interest in this? What is the  
6 interest of Hawk Investments, SLS Holdings, what is it to them  
7 who controls SeeCubic B.V.?

8 MR. MAZZA: I'm sorry, Your Honor. Could you repeat  
9 the question?

10 THE COURT: What is it -- what is Hawk and SLS  
11 Holdings, what is their interest as to who controls B.V. --  
12 SeeCubic B.V.? I guess it's current shareholders.

13 MR. MAZZA: Well, as secured -- right. As secured  
14 creditors in the structure, Your Honor.

15 THE COURT: Okay. So secured creditors -- I don't  
16 know Dutch law. So secured creditors can there file to have  
17 someone determine who's in charge? Could you do that? I guess  
18 you could in Delaware. I don't remember Delaware law 10 to 15  
19 years ago. I don't remember.

20 MR. ALEXANDER: Your Honor, Vincent Alexander on  
21 behalf of the Debtor. To be clear, they're not secured  
22 creditors of SeeCubic B.V. They're creditors of --

23 THE COURT: They claim that they are.

24 MR. ALEXANDER: No, they don't. They don't claim  
25 that they are. Their agreements are with Stream. That's who

1 their agreements are with. They're agreements are with Stream.

2 THE COURT: Yeah, but counsel, but they said Stream  
3 assigned their interest in, I guess, including SeeCubic B.V.  
4 for security for the loans to Stream.

5 MR. ALEXANDER: No, I don't think any interest -- no,  
6 no interests were ever assigned. I mean, you're saying there  
7 were pledge agreements as part of some of the instruments, but  
8 they can't effectuate those post-petition.

9 THE COURT: So are they or are they not creditors of  
10 SeeCubic B.V.

11 MR. ALEXANDER: They are not creditors of SeeCubic.  
12 They are not creditors of SeeCubic B.V. I haven't seen any  
13 filing in which they said SeeCubic B.V. owes them any dollar  
14 amount.

15 THE COURT: Mr. Mazza, are you saying you're a  
16 secured creditor? How are you a secured creditor?

17 MR. MAZZA: I need to -- Your Honor, we need to take  
18 a look at the security documents as to how far down the pledges  
19 go. I think, though, the point is --

20 THE COURT: What's the pledge?

21 MR. MAZZA: I'm sorry, Your Honor?

22 THE COURT: And the pledge agreement was a pledge of  
23 what?

24 MR. MAZZA: It would have been shares of various  
25 entities in the structure. And I think the open question is

1 how far down does the share pledge go, so I don't know the  
2 answer to that off the top of my head.

3 THE COURT: So then what basis are you asserting that  
4 you're a creditor if your only interest that you know of is  
5 that Stream pledge is -- if ownership interest in SeeCubic  
6 B.V. That doesn't make you a creditor. It just makes you a  
7 possible shareholder or interest or whatever it is that -- that  
8 Stream TV has when Stream TV currently owns.

9 MR. MAZZA: Right.

10 THE COURT: And if you haven't foreclosed on that  
11 interest, I don't know what your interest is.

12 MR. MAZZA: You're -- yeah.

13 THE COURT: This boggles me. Everything about this  
14 case. And I'm not pointing at any one of you, but you know,  
15 none of this makes -- is adding up. It isn't good for anybody,  
16 okay. Because I have questions about all of the parties, all  
17 of them.

18 And so I'm not understanding if you are not a secured  
19 creditor in the sense that you haven't loaned money to SeeCubic  
20 B.V. They haven't put up their assets. What the heck are you  
21 guys doing in the Netherlands?

22 MR. MAZZA: Your Honor, and I'm sorry to complicate  
23 this even further. But yes, there have been loans made to  
24 SeeCubic B.V. to fund that entity so there is a direct credit  
25 relationship. So I know this isn't an evidentiary hearing and

1 there's a lot of complicated facts here, but there are direct  
2 credit relationships that relate to B.V. given the funding that  
3 has been made to B.V. during the course of its operations by  
4 Hawk --

5 THE COURT: You have loans and security agreements  
6 with SeeCubic B.V. is what you're telling me?

7 MR. CAPONI: Correct. Correct, Your Honor.

8 MR. MAZZA: I can tell you there's loans and go  
9 ahead, Mr. Caponi.

10 MR. CAPONI: Your Honor, I don't get -- to Mr.  
11 Mazza's point, I don't have -- there's 20 some security  
12 agreements. Most -- during -- some of the 18 original notes  
13 the money went directly to B.V., but more recently when the  
14 case was back in the Court of Chancery and the receiver was  
15 appointed, SeeCubic, Hawk, et cetera, funded the approximately  
16 \$1 million a month cash burn rate at SeeCubic B.V. directly  
17 with -- from -- to SeeCubic B.V. with the receiver and there  
18 were lines of credit. I just don't know all the terms of  
19 those. But they were heavily secured, et cetera, et cetera.  
20 It was effectively like a dip financing.

21 MR. ALEXANDER: Your Honor, this is Vincent Alexander  
22 for the Debtors. That was part --

23 THE COURT: Wait a minute.

24 MR. ALEXANDER: That was part of the receivership.

25 THE COURT: Right. So the receiver, on behalf of

1 SeeCubic B.V., entered into some transactions where there was  
2 money and a security interest granted.

3 MR. CAPONI: It was court approved, Your Honor, yes.  
4 It wasn't some sort of, you know, secretive transaction.

5 THE COURT: Okay.

6 MR. CAPONI: The stream was for their --

7 THE COURT: Counsel, I wasn't even suggesting it was  
8 secretive.

9 MR. CAPONI: No, I think the other side is. Your  
10 Honor, honestly, Stream is -- I mean, Stream is well aware of  
11 this. It was -- it was -- they were -- it was a multi-party  
12 negotiated funding agreement where everyone signed off on it.  
13 So it's -- I just don't happen to have all the terms, but  
14 everyone's aware of it.

15 MR. ALEXANDER: Your Honor, this is Vincent  
16 Alexander. Just to be clear, I wasn't trying to indicate that  
17 I was not aware and the Debtors aren't aware that there was  
18 some funding as part of the receivership, that some of these  
19 entities may have done. Which particular one, I don't know. I  
20 personally haven't seen a security agreement in terms of that  
21 funding that occurred.

22 But again, that's not -- they're acting based on what  
23 they believe are their rights as secured creditors and the  
24 secured documents with respect to the Debtors in terms of being  
25 able to control management. That's what they're acting --



1 they're not acting on behalf of anything that happened in terms  
2 of funding as part of the receivership. I mean, so there's a  
3 clear distinction about what they're trying to do. So that's  
4 -- that's irrelevant to what they're attempting to do.

5 MR. CAPONI: Your Honor, again, this is Steve Caponi.  
6 I'm not intimately familiar with the ins and outs of the  
7 pleading in the Netherlands, so I'm not going to proposit  
8 otherwise. I just want to correct counsel's statement.

9 My client is seeking to enforce all of its rights  
10 however acquired, and that includes its secure creditor rights  
11 at the stream level as well as the, you know, millions of  
12 dollars that was more recently funded and is secured directly  
13 against the assets at the B.V. level. My client is not proud.  
14 It will enforce its rights in whichever manner it can, but it's  
15 enforcing all of them.

16 THE COURT: But counsel, what I'm trying to figure  
17 out how is bringing an action to have Mister -- and determine  
18 that Mr. Rajan is not in charge of SeeCubic B.V. an exercise of  
19 its rights in its collateral? That's all I'm trying to figure  
20 out.

21 MR. CAPONI: Yeah, Your Honor --

22 THE COURT: Because I'm reading this and that's what  
23 this thing is trying to do.

24 MR. CAPONI: Unfortunately, Your Honor, I can't shed  
25 any light because I have no insights of -- never read the

1 pleadings, not been involved in it. I was just responding to  
2 -- it is not simply -- whatever Hawk's doing or SeeCubic,  
3 whatever's going on in the Netherlands, there are direct  
4 fundings as well as the legacy fundings, I'll call it, or the  
5 18 plus, 20 plus loans, so.

6 THE COURT: Yeah, so these pleadings have nothing to  
7 do with the funding. They're not trying to foreclose on  
8 collateral. What it relates to is whether Mr. Rajan has the  
9 authority to be in charge of this company, and I'm not quite  
10 seeing how that's an exercise against collateral. How that's a  
11 foreclosure on collateral. I don't know.

12 MR. CAPONI: I would need to consult with Dutch  
13 counsel, Your Honor, because I don't know either. All I know  
14 is -- all I know is that there's an action in the Netherlands  
15 under Dutch law, and that's where my knowledge ends and we  
16 would need to get some, you know, understanding from Dutch law  
17 experts as to the nature of the action and the questions that  
18 Your Honor has.

19 MR. MAZZA: And if I may, Your Honor, Mr. Mazza  
20 again. So on the pledges, there is a -- and we can file a  
21 supplement with the Court to provide additional information.  
22 So there is a pledge and escrow agreement that is in favor of  
23 SLS, the party -- secured creditor, by the Debtors Stream and  
24 Technovative Technology Holdings, Delaware LLC, Ultra-D  
25 Ventures CV, and down the chain to Ultra-D Cooperative.

1           The share pledges are 65 percent of the equity  
2 interest in Technoventures B.V. and 65 percent of the equity  
3 interest in SeeCubic B.V.

4           THE COURT: Okay, counsel. And you believe that --  
5 I'm not understanding the relevance. Hello?

6           MR. MAZZA: I apologize, Your Honor. There was  
7 background noise. Do you mind repeating that?

8           THE COURT: I said, I didn't -- I'm not understanding  
9 the relevance to my question of what you just said, that there  
10 was a pledge of certain interest in SeeCubic B.V.

11          MR. MAZZA: Yeah, so to close the loop on that, Your  
12 Honor. The issue regarding the contested governance down there  
13 is the exercise of the pledge as it relates to those non-debtor  
14 entities that is before the issue of contested governance  
15 that's in the Netherlands.

16          THE COURT: I get that, but you're saying based on  
17 the pledge, your clients have a right to do that because the  
18 interest was pledged?

19          MR. MAZZA: I apologize, Your Honor. The issue --  
20 there's a pledge down there.

21          THE COURT: Okay.

22          MR. MAZZA: So let's take a step back. The issue  
23 before that is the status quo was that Mr. Stastney was a  
24 director down there and that's what's dispute as a matter of  
25 Dutch law as to whether Mr. Rajan has taken the steps in order

1 to be able to take that claim as the director down at those  
2 entities.

3 The pledge is in there. It's not been exercised on  
4 as far as I know.

5 THE COURT: Right.

6 MR. MAZZA: But it is a non-debtor entity. So sorry  
7 for the long-winded clarification, but that -- those are the  
8 facts and happy to --

9 THE COURT: But counsel --

10 MR. MAZZA: Sure.

11 THE COURT: But counsel, I'm not understanding -- you  
12 only have a pledge. You haven't foreclosed on the interest.  
13 At what -- what basis, when I have a debtor here who clearly  
14 has an interest in these entities and now their interest in the  
15 -- in management or whatever it is that's going on is now being  
16 callused somewhere else. Because it clearly says -- and not  
17 only that, they specifically talk about Stream's demand that  
18 the bonding equipment be turned over to them. They're opposing  
19 that.

20 How are they going to go to Dutch court and oppose  
21 something that's before me? I'm leading this. I got a problem  
22 with that. That's what they're saying that Mr. Rajan's trying  
23 to take our assets and turn it over and he shouldn't be and we  
24 want you to stop him. No, no, no, no, no. You're not going  
25 over there with that claim. That claim is here.

1 Now, at the end of the day, I may say, okay.  
2 Somebody needs to figure out who has control of this, but it's  
3 not now. Not when it's before me. I have to first figure out  
4 who owns this thing. Now, at the end of the day I say that  
5 SeeCubic owns it and somebody needs to figure out what to tell  
6 SeeCubic to do, we'll get there, but we're not there yet.

7 Now, I don't appreciate people going to another  
8 jurisdiction and to get another court to decide that they own  
9 it and that nothing should happen and no direction should be  
10 made with respect to the turnover or release of that equipment.  
11 Because that's exactly what you guys have asked for. I'm  
12 reading it and I don't appreciate that. That's not going to  
13 happen.

14 Now, if you guys want to go over there and fight  
15 about who's in charge, but I'm reading this and that's not all  
16 you're trying to do.

17 MR. MAZZA: So, Your Honor --

18 THE COURT: It says Mathu Rajan attempts to dispose  
19 of a value asset of Dutch SeeCubic operation. He wants them to  
20 turn over that bonding equipment, which is the exact issue  
21 before me as to who owns it.

22 And so it's not a matter of whether Mr. Rajan is  
23 going to tell somebody to turn it over. I get to decide who  
24 owns it and then if I say it belongs to Stream, what in the  
25 world is going to happen in the Netherlands if they say, oh,

1 no. We decided it belongs to SeeCubic. You can't do that. We  
2 can't have two conflicting decisions.

3 MR. MAZZA: Mr. Mazza, again, Your Honor. Your  
4 Honor, completely understand, I think the issue around who owns  
5 it does need to be decided and I think there's confusion on  
6 that point. Is it the B.V.? Is it Stream? I believe there's  
7 a letter from Mr. Rajan saying it's both Stream and B.V.s.

8 And I think to just deescalate the allegations around  
9 stay violations, that Your Honor hit the nail on the head as to  
10 how this all can be dealt with through insurance and telling  
11 people where this equipment would otherwise go and we'd be sort  
12 of done with it.

13 I think that Your Honor also hit the nail on the head  
14 as to the corporate law dispute. That is what it is over in  
15 the Netherlands, and to the extent that that doesn't deal with  
16 issues around the bonding equipment which can be dealt with in  
17 a commercial fashion as already stated by Your Honor, then I  
18 think we can save a lot of people a lot of time around here.

19 THE COURT: And who was this? Wait, who was that,  
20 that proposed that?

21 MR. MAZZA: It was Mr. Mazza again.

22 THE COURT: Okay. All right.

23 MR. MAZZA: And that's what, Your Honor, we proposed  
24 previously, so.

25 THE COURT: Okay.

1 MR. CAPONI: Steve Caponi, again, for Hawk. Just to  
2 chime in on what Mr. Mazza just said, and this gets to the  
3 motion we're eventually going to get to I hope about the  
4 dismissal. I think regardless of who -- I mean, let's assume  
5 -- we know at the start of this bankruptcy, this asset was  
6 sitting at the SeeCubic B.V. level and it was being used and  
7 housed there. That's the ordinary course, let's just call it.

8 The problem we have with this case is there is no --  
9 the Debtors are not doing anything that you normally see. No  
10 first filed -- no first day motions, no bank accounts, no dip  
11 financing, no anything.

12 If this were proceeding in the ordinary course, a lot  
13 of these issues would be addressed. But the Debtor, rather  
14 than teeing them up the way a debtor normally does, so for here  
15 example, Mr. Rajan versus -- rather than flying to the  
16 Netherlands and trying to get -- just take the equipment out,  
17 should have come to Your Honor and said I want to do something  
18 out of the ordinary course. I want to take a valuable piece of  
19 equipment. I want to move it from one subsidiary and I want to  
20 move it to the ownership of a different, and we would hash out  
21 adequate assurance and all those kind of issues.

22 The reason this case is such a mess is because the  
23 Debtor's not doing any of the normal step one, step two, step  
24 three processes. Rather it's, you know, it's reorganizing by  
25 chaos.

1 And I'm happy -- from my client's perspective, Hawk,  
2 I can represent to Your Honor, if we're going to tackle the  
3 ownership and adequate assurances in front of Your Honor, we're  
4 happy to do it. If it's going to be a smash and grab in the  
5 Netherland because that's where Mr. Rajan's doing, then we'll  
6 have to do it there.

7 I mean, we want to bring order to this and we think,  
8 you know, dismissal or trustee does that, and we can get to  
9 that. But Your Honor, I understand your frustration, but I  
10 think it really needs to be directed at the Debtor before it  
11 starts taking extraordinary actions, which this clearly is.

12 Why isn't it before Your Honor on a proper motion so  
13 that all the stakeholders can be heard in an orderly fashion?  
14 That's what we really were advocating for.

15 MR. ALEXANDER: Your Honor, Vincent Alexander on  
16 behalf of the Debtors. I can briefly respond to that.

17 THE COURT: Yes.

18 MR. ALEXANDER: The Debtor would love to have the  
19 opportunity to not deal with these other issues and focus on  
20 what Mr. Caponi described as normal debtor operations.  
21 However, since the petitions were filed, we've been met with  
22 immediate resistance from each of the creditors with respect to  
23 the simplest things of the Debtor even having access to its own  
24 property.

25 Also, they talk about how -- it sounds like they're



1 trying to parse out, you know, management and equipment. But  
2 the only way you get through the management is through the  
3 Debtor's management rights going down. You can't cut through  
4 the chain. So by doing anything with regards to management in  
5 the Netherlands, they're impacting the Debtor's rights here in  
6 the United States, and that's exactly what they're trying to do  
7 is impact the Debtor's rights.

8           The Debtors want to propose a plan and have a plan  
9 that they're going to propose that's going to take care of the  
10 secured creditor's claims. But in order to do that they do  
11 need their assets in order to do that.

12           You know, this isn't a bankruptcy -- I don't know the  
13 word is ambush -- or chaos, I think is the word. We would like  
14 a controlled process. But you can't hold the Debtor hostage  
15 for its assets and then say, we'll give you your assets if you  
16 give us something. Right, that's not the way it works. The  
17 Debtor's entitled to its assets and issues of adequate  
18 protection or anything else are dealt with in due course. But  
19 you can't tell the Debtor, you know, you need to take care of  
20 all of these issues but then they don't have the ability or the  
21 assets to do that.

22           So we agree. We should be able to work out some type  
23 of arrangement or agreement with regards to the equipment. But  
24 we don't think any of this usage of the equipment would be  
25 outside the ordinary course because it's outside the ordinary

1 course of the business and this is the business of the Debtor.

2 So we can work out bankruptcy specific issues, but we  
3 need our assets in order to do that and we need the  
4 interference to stop. And so that's what the Debtor would  
5 like. And if we can get that, then we'll be able to proceed on  
6 a path here in this case in terms of all the parties working  
7 together to have a successful outcome.

8 Because at the end of the day, that bonding  
9 equipment, I don't know how they used the words take or -- it  
10 would be under the control and the supervision of this Court.

11 So unless they -- the creditors don't respect what  
12 this Court's capabilities are to do to the Debtor if the Debtor  
13 doesn't comply with its requirements, then there should be no  
14 issue. It's not as if the Debtor was taking equipment and  
15 transferring it to some entity that the Debtor didn't have  
16 control over. No, the Debtor said this is my property, which  
17 means it's property of the estate, which means it's under the  
18 supervision of this Court.

19 We want everything to be under the supervision of  
20 this Court so that we can move on a path forward to get the  
21 issues resolved. But we can't keep having all of these, you  
22 know, offramp litigations and disputes. Everything should be  
23 in the bankruptcy court.

24 MR. CAPONI: Your Honor, again, Steve Caponi --

25 MR. MAZZA: Your Honor --

1 THE COURT: If you would --

2 MR. CAPONI: If I could just briefly respond.

3 THE COURT: Wait a minute. I have a question.

4 Counsel, you would agree that with respect to the issue of  
5 management of these companies, that this -- I don't think that  
6 -- well, even assuming I had the ability to address that  
7 because it's property that a debtor has, that there's a  
8 different company of companies that the Debtors --

9 MR. ALEXANDER: Your Honor, are you still there?

10 MR. CAPONI: May have dropped again.

11 MR. ALEXANDER: Okay.

12 Is Your Honor back?

13 COURT REPORTER: No, she's not back on yet.

14 MR. ALEXANDER: Okay.

15 COURT REPORTER: That was her disconnecting.

16 MR. ALEXANDER: Oh.

17 MR. CAPONI: I think she said she has to do it twice  
18 now, right?

19 COURT REPORTER: Yeah.

20 MR. ALEXANDER: Yes.

21 COURT REPORTER: There's a delay, apparently.

22 THE COURT: Well, counsel, that was -- that was hang  
23 up number two, so I guess we're good for the rest of the day,  
24 I'm hoping.

25 Did everybody hear what I was saying before I got

1 disconnected?

2 MR. ALEXANDER: Your Honor, I think -- this is  
3 Vincent Alexander for the Debtor. The last thing I believe you  
4 said was counsel, you would agree regarding management, and  
5 then you cut off.

6 THE COURT: Right. That regarding management, that  
7 that is the issue -- I'm not quite sure that you heard me say  
8 that even if it was something that I would have jurisdiction to  
9 decide, and I don't know if I do or I don't, it's a core I get  
10 a final decision if it's related to, I issue a report and a  
11 recommendation that goes to the district court. Or it's  
12 something that I say, even if I can hear it, I'm going to --  
13 which I do with a lot of things. For instance, I may have  
14 landlord tenant issues. I may have property disputes. Things  
15 that I'm capable of doing but I think it's more appropriate to  
16 be in a court that has a familiar -- that does this on a  
17 regular basis, knows what the law is as opposed to me trying to  
18 interpret the law.

19 So and this goes to Mr. Alexander. Do you not think  
20 that at some point the issue of control over the subsidiaries  
21 is going to have to be -- I'm going to call them subsidiaries,  
22 because it's not -- it's a whole new company. I don't know  
23 what else to call them. But of the related companies is going  
24 to have to be decided at some point?

25 MR. ALEXANDER: Your Honor, we believe that that is

1 under the jurisdiction and control of this Court because it all  
2 flows down from the right that Technovative has which is before  
3 this Court as a debtor. And those are assets of this estate.  
4 So those management rights are assets of this estate and we do  
5 believe that the Court should do that in terms of exercising  
6 control over that.

7 And with respect to -- you know, I believe they've  
8 hinted and alluded to -- I think they're trying to bring in the  
9 authority to file type issue. But we'll happily address that  
10 with this Court because we believe that the caselaw supports  
11 that we have a valid filing and we can proceed with the  
12 bankruptcy case.

13 And when you control the entity at the Technovative  
14 level, you control all the downstream entities.

15 THE COURT: Well, there's still some issue because at  
16 the time of the file -- well, at the time of the filing, there  
17 was a receiver who was in control, was there not?

18 MR. ALEXANDER: There was a receiver pendent right  
19 that was in place.

20 THE COURT: Uh-huh.

21 MR. ALEXANDER: And that --

22 THE COURT: But that's what I -- I guess we have  
23 different pronunciation. I say pendant, you say pendant like -  
24 -

25 MR. ALEXANDER: You're much more sophisticated than I

1 am, Your Honor.

2 THE COURT: No, I don't think it has anything to do  
3 with that. I just think it has to do with what your initial  
4 language is. I think that that sort of colors how I pronounce  
5 words.

6 But with that being said is that while I may have  
7 jurisdiction over the Debtor's interest and I may have the  
8 authority to decide the Debtor's interest, what I'm saying it  
9 may not be something I necessarily would want to decide and I  
10 might defer to another court to make that decision.

11 The question is, is it now or is it later on whether  
12 I would do it at all. Because -- so that's all I'm saying.

13 MR. ALEXANDER: Your Honor, I mean -- Vincent  
14 Alexander again. I mean, in terms of that issue, I think if  
15 the authority to file issue is addressed, which is I believe a  
16 core ruling and under the jurisdiction of this Court, right, is  
17 the authority to file.

18 THE COURT: Definitely. Definitely. That wouldn't  
19 go to anybody else.

20 MR. ALEXANDER: Yeah. I think once --

21 THE COURT: And I don't think that -- I don't think  
22 that anybody's in the Netherlands challenging whether the two  
23 companies have the right to file. I don't think that's what's  
24 going on.

25 What I think is going on and from what my reading of

1 this and it was very brief because you just pointed it out to  
2 me, but I could also read the parties various pleadings was  
3 that post-bankruptcy, when the receiver was in place was no  
4 longer in place, then who was in charge of the subsidiaries?

5 Clearly, it would have been the -- whoever the --  
6 whoever was in charge prior to -- and I say in charge, was the  
7 person with the authority, prior to the Chancery Court's  
8 installation of the receiver pending the litigation.

9 That -- what did that mean in terms of I don't know  
10 who was in charge. I don't know. And then once the receiver  
11 no longer has the authority, then that authority could go to  
12 either the party who was there or whatever process for changing  
13 that would be the appropriate way to have that done.

14 But the relevance of that is that it's kind of at  
15 this point, these are entities that the Debtor needs to rely  
16 upon for its success, whether that's something that needs to be  
17 done now or at some point in the future, or whether it's  
18 something that gets resolved in the motion to dismiss because  
19 whether the authority -- and I don't know what the authority is  
20 because I don't know what the different articles -- whatever  
21 they're called in the Netherlands, whatever it is for formation  
22 or how you operate, any of those different things, I'm not  
23 quite sure what that means. I just know that right now we are  
24 in a specific place, and whether you are in my court or  
25 somewhere else, whether those are issues that get immediately

1 addressed or not.

2 With respect to the Netherlands, what I gathered from  
3 this summary proceeding is that the Debtor -- well, the company  
4 SeeCubic wants to prevent Mr. Rajan from directing the --  
5 whoever the representative of that company to execute the exact  
6 document that someone says they need to do here in my Court,  
7 and that Mr. Rajan is exceeding his authority.

8 Because they have it broken down into what the court  
9 issued, the parties, the jurisdiction, the Rajan brothers  
10 leading to intervention by funders in 2020, leading up to these  
11 present invalid decisions making an attempted asset stripping.  
12 That's the one that caught my -- let's see. The unpaid  
13 financiers, SLS and Hawks are in the process of forcing their  
14 security issues, consistently -- consisting essentially of the  
15 ownership in the country, one in the Netherlands, and now the  
16 value is in danger of being impaired in the very future by the  
17 person who attracted the debt investment but is not repaying  
18 it.

19 So that's sort of what they said the bottom line was,  
20 which you know, are you trying to exercise your rights in these  
21 companies? I don't know what they're trying to do over there.  
22 But we still have a problem for this is -- it says, these  
23 failure of enforcement proceeding is initiated by the  
24 financiers to obtain the assets given as a security prompted  
25 the independent directors of Stream to enter into an amicable



1 settlement, the omnibus agreement. Okay. Well, that's no  
2 longer in effect.

3 And it says Stream and Rajan brothers refuse to  
4 accept that control of the company lies with the financiers.  
5 Counsel, who's to tell them that? You haven't foreclosed on  
6 your security interest in the control or any of that. I'm a  
7 little concerned why you would go say that and somebody would  
8 allege all of that. That's all disputed, and you agree you  
9 haven't foreclosed on the ownership interest.

10 So maybe you might have foreclosed on your interest  
11 in the assets, but I haven't heard anybody say that you  
12 foreclosed on the ownership interest of the Debtors and  
13 actually, they're in this Court. I don't know how you could be  
14 in the Netherlands saying something to the contrary. I'm a  
15 little concerned about that.

16 MR. MAZZA: Your Honor, Mr. Mazza, again. I don't  
17 know -- I don't think that that's the -- maybe it got lost in  
18 translation or something to that effect. But I think the point  
19 is that the status quo was that Mr. Rajan as of the filing of  
20 these entities was not a director down properly recognized at  
21 the non-debtor Dutch subs.

22 And so I think that the issue that may not be  
23 elegantly presented in those Dutch pleadings is that that's  
24 what's contested because the financing parties that have rights  
25 against those non-debtors is -- doesn't entitle Mr. Rajan to

1 come down and declare himself the sole director.

2 So I think that's what's meant to be said and to the  
3 extent it's not said that way, then it's not, I think,  
4 elegantly presented. But there's --

5 THE COURT: But you would agree that at the time of  
6 the filing, the receiver was in control of all of that.

7 MR. MAZZA: Correct.

8 THE COURT: And once he was no longer in control,  
9 what did that mean for the Debtors, the holding company,  
10 Technovative essentially is the owner of -- through its  
11 ownership of various entities actually the owner. You know,  
12 what does that mean in terms of how it's affecting debtors is a  
13 concern.

14 So okay, so obviously --

15 MR. MAZZA: Your Honor, if I may --

16 THE COURT: Uh-huh.

17 MR. MAZZA: Right. So and I -- I don't think -- I  
18 think that the dispute in the Netherlands is that because of  
19 the filing, that didn't meant that there was some  
20 transformation such that Mr. Rajan legitimately became a  
21 director down at the non-debtor subs. I think that your point  
22 -- there is no intent to quarrel with any of the Court's  
23 jurisdiction as it relates to the Debtor entities.

24 We do think that, again, it was an alterviras  
25 (phonetic) act of Technovative and that's a separate story.

1 But I think Your Honor was honing in on how the issue really  
2 flagged down at the non-debtor sub. It's an issue of Dutch  
3 corporate law for that court's jurisdiction to decide. And  
4 while there may be this sort of indirect interest that rolls  
5 back up to the Debtor entities, they don't get the benefit of  
6 being able to say that I can just avoid my creditors down below  
7 that I don't file for bankruptcy, that I don't put under the  
8 supervision of the bankruptcy court in order to -- and extend  
9 the stay in that way.

10 Again, I think Your Honor, we had a colloquy earlier  
11 about extending the stay and the like. And they certainly  
12 haven't done it -- done that, so.

13 THE COURT: Hold up. It's not even -- it's not even  
14 -- counsel, I don't see it as both -- I also have the ability  
15 to say this is part of the Debtor's assets, they have an  
16 interest. Don't do anything until I figure out what I want you  
17 to do with it.

18 I'm not saying that the Dutch court may not have  
19 jurisdiction.

20 MR. MAZZA: Right.

21 THE COURT: But I clearly have jurisdiction over all  
22 of their interests, and the Debtors, through their entities,  
23 have an interest in these companies. So the question becomes  
24 is what happens now?

25 Because as I said, one of the things they want to do

1 is to stop, and if the Court says, there. Make a declaration  
2 that in fact that bonding equipment belongs to SeeCubic B.V.  
3 and no turnover and I find exact opposite, now we've got a  
4 problem. We have got a problem.

5 MR. MAZZA: And Your Honor, I think -- okay. I'm  
6 sorry.

7 THE COURT: Go ahead.

8 MR. MAZZA: I was just -- I was going to say I think  
9 that where you were honing in is that there is a commercial  
10 resolution that could be dealt with with the bonding equipment,  
11 and that would save a lot of parties a lot of time.

12 I think there's a question of who really owns that  
13 bonding equipment, but really does it ultimately matter if we  
14 can come up with a commercial resolution as a protection of the  
15 equipment, insurance that a debtor needs that, et cetera.

16 And so to me, to escalate this to some allegations  
17 around willful violations of the stay when we've come to the  
18 table and unfortunately, I don't think counsel has had great  
19 candor with the Court about discussions around these issues  
20 which Your Honor has again pointed out.

21 And the last point I'll make on this Dutch subsidiary  
22 issue, Judge Silverstein, a couple days ago, had an opinion  
23 where she addressed issues regarding non-debtor subs and she  
24 found that a lawsuit against a non-debtor subsidiary does not  
25 violate the automatic stay if such lawsuit may impact the value

1 of the stock that the parent debtor owns as it does not alter  
2 the estates -- bankruptcy estate's rights, liabilities, options  
3 for freedom, or action, and that ownership of the outstanding  
4 stock by the parent debtor does not confer jurisdiction to the  
5 bankruptcy court.

6 So again, Your Honor, we completely have all  
7 deference to everything that is under your jurisdiction and  
8 what you're trying to sort out in this case and we are not  
9 looking to go afoul of anything that Your Honor wants to make  
10 sure is control. But let's take a step back as to how this all  
11 came about.

12 We're in discussions, Mr. Rajan's headed over to the  
13 Netherlands and is trying to take control, and frankly, parties  
14 are just trying to protect their rights. And so any guidance  
15 from Your Honor would certainly be appreciated because these  
16 are issues that are complicated.

17 And again, they have a commercial solution that we  
18 can deal with one way or the other. But this does not mean  
19 that Mr. Rajan can just throw himself around and cloak himself  
20 in the automatic stay when it simply doesn't apply.

21 THE COURT: Right, and I get that. Right.

22 MR. ALEXANDER: Your Honor, this is Vincent  
23 Alexander, the Debtor. When you're done, I would like an  
24 opportunity to speak. I don't mean to cut you off.

25 THE COURT: Right. No, I just want to comment that,

1 right. I don't know what rights Mr. Rajan has, doesn't have.  
2 I'm sorry. I don't know what rights -- who has what rights  
3 with respect to the control over these companies or whether you  
4 can or cannot replace whoever was there. That's an issue that  
5 needs to be resolved either -- because is it the Debtor's  
6 interest that's being affected or whose interest?

7 And I get it, I haven't read Judge Silverstein's  
8 decisions. I don't know if they're factually the same. I have  
9 no idea what the soup was, what -- if they're exactly the same  
10 or whether they were trying to foreclose on something. I don't  
11 know.

12 My concern with respect to that action with respect  
13 to the secured creditors, they are secured creditors, at least  
14 from what I can gather, prior to the installation of -- or the  
15 appointment rather, of the -- and from what I'm gathering, and  
16 I could have this factually incorrect, it was prior to the  
17 appointment of the receiver during the litigation. It does not  
18 appear that SeeCubic B.V. had any direct loans or pledges or  
19 anything with the creditors who brought the action in the  
20 Netherlands. At least I haven't heard any. What I've heard is  
21 -- yes?

22 MR. MAZZA: Your Honor, Mr. Mazza again, and I know  
23 there's been a lot of facts. But yes, the B.V. equity is  
24 pledged, 55 percent of it to their creditors, so.

25 THE COURT: Right. But it was a pledge through who?

1 MR. MAZZA: It would have been a pledge by the owner  
2 Cooperativ.

3 THE COURT: Okay. But that's what I'm saying. I --  
4 what I'm saying is that the ownership interest in that company  
5 was pledged either by Stream or by some other entity. So and I  
6 don't know if that was prior to -- I understood that it was  
7 during the receivership that loans were made, pledges were  
8 made. You're saying that there was loans to Cooperativ and  
9 they pledged their interest?

10 MR. MAZZA: Correct. Cooperativ had pledged it's  
11 interest to SLS and Hawk. So it's set forth in I believe, is  
12 that the collateral estoppel opinion written by Chancellor  
13 Laster. If I can just indulge, Your Honor.

14 "Between 2010 and 2020" -- and I'm reading from the  
15 opinion,

16 "stream borrowed millions of dollars. Stream's  
17 senior secure creditors SLS Holdings 4 LLC to be  
18 referred to as SLS between 2011 and 2012, Stream  
19 borrowed six million from SLS under a series of  
20 notes, the SLS notes. Stream pledged all of its  
21 assets as security for the SLS notes and executed a  
22 security agreement that authorized SLS to levy on its  
23 assets in the event of default.

24 "Seniors Streams junior creditors Hawk between 2010  
25 and 2020, Stream borrowed more than 50 million from

1 Hawk plus additional millions denominated in dollars.  
2 The loans are documented in a total of 18  
3 substantively identical notes.

4 "In connection with the Hawk notes, Stream executed  
5 18 substantially identical security agreements,  
6 subject to the senior security interest held by SLS.  
7 Each of the Hawk security agreements granted Hawk a  
8 security interest in substantially all of Stream's  
9 assets including the company shares. Each of the  
10 Hawk security agreements authorized Hawk to levy on  
11 and take control of Stream's assets to satisfy Hawk  
12 if Stream defaulted.

13 "Also in connection with the Hawk notes, Stream  
14 executed a total of 15 substantially identical pledge  
15 agreements. Each provided if Stream defaulted on any  
16 of their Hawk notes, then Hawk could vote the company  
17 shares."

18 Bear with me a second, just don't fail me the rest.  
19 I apologize, Your Honor. Just one second. The opinion's kind  
20 of lengthy.

21 MR. ZAHRALDDIN: Your Honor, this is Raphael  
22 Zahralddin. Can someone identify which date of which opinion  
23 Mr. Mazza's reading from?

24 THE COURT: Well, I don't know if it answers my  
25 question. My question is --



1 MR. MAZZA: November 29th, 2022, is the date.

2 MR. ZAHRALDDIN: Thank you.

3 THE COURT: Okay. So my question is did some -- an  
4 opinion on non-opinion, did Cooperativ pledge it's interest  
5 separately?

6 MR. MAZZA: Yes.

7 THE COURT: Not separately pledge it's interest in  
8 SeeCubic as security? Not through Stream. Not Stream pledging  
9 its interest in Cooperativ, but Cooperativ directly itself  
10 getting a loan, or maybe Cooperativ in connection with Stream's  
11 loan pledge their its interest. Did each entity also pledge  
12 their interest in whatever else they have?

13 MR. MAZZA: Yes. That's what I'm -- I'm trying to  
14 find that specifically. But if we could file a supplement to  
15 the Court to provide that information, again.

16 THE COURT: Yeah, that would be filed -- or that  
17 would be fine.

18 MR. MAZZA: Yeah, okay. Your Honor. Thank you.

19 THE COURT: Okay. So I guess we've gotten through  
20 enough of -- I mean, this is colloquy. Can you imagine what  
21 trial's going to be like if we have to try this matter on  
22 relief from the State.

23 So I think I sort of know where I am with that, and  
24 I'll figure out what I want to do.

25 Let's talk about the motion to dismiss. Clearly,

1 that's going to need evidentiary hearing because I can't even  
2 do it without it. So let's talk about that.

3 MR. CAPONI: Yes, this is Steve Caponi for Hawk who  
4 filed the motion.

5 THE COURT: Wait a minute. Wait a minute. Wait a  
6 minute.

7 MR. ALEXANDER: Mr. Caponi, I apologize. This is  
8 Vincent Alexander. I apologize. I didn't mean to cut you off.

9 THE COURT: No, it's somebody else's fault.

10 MR. ALEXANDER: I had asked Your Honor if I could  
11 just clarify one point before you had moved on. It's Vincent  
12 Alexander on behalf of the Debtor.

13 THE COURT: Sure. Okay. What was the point? Be  
14 fast.

15 MR. ALEXANDER: I'm sorry. It was just --

16 THE COURT: Go ahead.

17 MR. ALEXANDER: A, there was just one comment made  
18 about candor to the Court, and I just want to let you know,  
19 we're just stating the facts to Your Honor and being very  
20 candid in terms of what the position is.

21 And our whole view is that the control goes  
22 downstream. So if you have control at the top, you have  
23 control at the bottom. And so our position is that if the  
24 bankruptcy is authorized, the Debtors have control of all the  
25 downstream entities and there shouldn't be any proceedings

1 anywhere else trying to determine the control issues because it  
2 all stems from assets of the estate.

3 So we agree that we can't have parallel proceedings,  
4 and we think this Court should decide those issues first. And  
5 if they want to do something in the Netherlands after this  
6 Court makes a decision, then, so be it. But those issues need  
7 to get decided here first.

8 THE COURT: Well, I'm not sure if any of it is black  
9 and white is that, because whether the Debtor has control over  
10 its interest in these various entities are governed and  
11 controlled by separate agreements, separate laws, separate  
12 everything. So yes, I agree the Debtor has interest and that  
13 interest is property of the estate. But what that interest is,  
14 is to the extent somebody who's challenging is typically  
15 interest in property of the estate is determined by the  
16 bankruptcy court.

17 And so I'm not sure and I'll take a good look at  
18 Judge Sue's (phonetic) decision. What does that mean if a  
19 debtor has interest in a subsidiary, and there is some  
20 litigation against that subsidiary. There are cases clearly  
21 where the stay is put into effect to say, we're going to just  
22 put a hold on everything, until we can first get something  
23 going in the bankruptcy. But I think as an initial matter,  
24 even before we get to any of that, if there is a motion to  
25 dismiss on the basis that this is an unauthorized filing, which

1 in and of itself, may take care of everything, assuming that  
2 this is -- I'm not -- I don't know if it's right or wrong. But  
3 let's talk about that.

4 So I get your position, counsel. And I'm not -- you  
5 know, I'm not quite sure that even -- I'm not saying that  
6 you're not correct in that this is property of the estate and  
7 control lies with the Debtor. But that control is not defined  
8 by bankruptcy law. The interest of the Debtor in the property  
9 is not disputed. No one's saying the Debtor through its  
10 subsidiary doesn't have an interest, but what that interest is  
11 and how you exercise that interest may be property of the  
12 estate. And I can't recall, I probably -- I think I addressed  
13 that issue somewhere at some point.

14 But in interpreting that, it may not be something I  
15 would want to undertake. It would be something that I would  
16 likely defer to the Netherlands, because that is more -- for  
17 instance, if this was an issue of Pennsylvania corporate law,  
18 Jersey corporate law, even Delaware, I mean, I took the bars  
19 years ago. I'm not saying I'm not that much of an expert, but  
20 I think I would have the wherewithal to say, okay, I can figure  
21 this out. And I'll figure it out. Sometimes when even when I  
22 have jurisdiction to, "figure it out" I defer to a more  
23 competent court. So that's all I'm saying with respect to  
24 that. Okay? All right.

25 MR. MAZZA: Your Honor, Real quick. And I'm sorry to

1 belabor. Mr. Mazza again. And as far as what's been said in  
2 the Court around the buying equipment, the point I was making  
3 is that, as Your Honor had suggested, if we could just come up  
4 with a commercial arrangement that could be dealt with and not  
5 waste the Court's time. So that's why I made that point is  
6 that counsel hadn't said anything about that. And we wish they  
7 had come to the table to be more commercial as opposed to try  
8 to come up with stay violations.

9 And then just the last point that you raised  
10 regarding what's going on in the Netherlands, and the courts of  
11 competent jurisdictions alike, and I think this is just a  
12 preview to what you're going to hear from Mr. Caponi on the  
13 motion for alternative relief, but the 225 action was advanced  
14 to virtually the end of the line, and then this case got filed.  
15 The 225 action would have decided all these things in Vice  
16 Chancellor Laster's court.

17 So in our view, while we've completely respected have  
18 full deference for what Your Honor has under your jurisdiction,  
19 these state law property estate issues have been really run to  
20 the ground. And for that reason, that's going to support what  
21 Mr. Caponi is about to lay into.

22 THE COURT: Okay. All right. Mr. Caponi.

23 MR. CAPONI: All right, Your Honor. I take it to  
24 heart that we've been going for quite a while here. And I  
25 think we've plowed a lot of ground. And you know,

1 there's -- the Debtor thinks it's a legitimate entity. These  
2 are organized. We think it's a bad faith filing and an effort  
3 to avoid, you know, the creditors. And I don't want to belabor  
4 that point.

5 I take Your Honor's issue regarding the need for an  
6 evidentiary hearing. And I think, you know, rather than  
7 arguing the merits of the motion, we ought to focus on that  
8 with one exception. And that exception, Your Honor, would be  
9 the authority to file I think it's the primary one. There's no  
10 evidence needs to be taken on that. The Court need only look  
11 at the receivership order. Counsel, you know, we had a  
12 discussion a few minutes ago about pendente lite or lite.

13 If you look at the face of the order itself, that is  
14 incorrect. The Vice Chancellor's decision, which is a reason  
15 decision made it very clear that on behalf of the state of  
16 Delaware, he was reclaiming the entity, control of the entity.  
17 And he put the receiver in place to be the board of directors,  
18 not to manage assets. So it's not a situation where you have a  
19 board of directors and then a receiver is overseeing the  
20 assets. The board was removed and replaced with the receiver.  
21 And that's spelled out very clearly in the order.

22 As a result, this isn't a situation where was there a  
23 constitutional infringement on the entity's right to file  
24 bankruptcy? No. The receiver was the board and was the only  
25 one able to do it. Mr. Rajan was a third party, a stockholder

1 at best and had no authority. So I think, Your Honor, we could  
2 tee that up, and that could be resolved on the papers that  
3 currently exist.

4 THE COURT: Okay.

5 MR. CAPONI: When you get into the -- and again, I  
6 would urge the Court to read Vice Chancellor Laster's decision.  
7 I'm a corporate law lawyer geek. There's a huge distinction  
8 between if you look at the order, it refers to the statutory  
9 appointment of a receiver, that you would appoint for a  
10 pendente lite.

11 And then it -- but it specifically says that under  
12 Section 141, which is the provision of 8 Del code 141, which  
13 governs the authority of a board of directors and states that  
14 all corporations are managed by the board, Vice Chancellor  
15 Laster says, I am vesting in this receiver all rights and  
16 authority that would otherwise sit with the board of directors.  
17 And I think once he did that, the only person who could file  
18 bankruptcy, speaking as the board of directors, was the  
19 receiver. Not Mr. Rajan. So we think as to Technovative,  
20 that's why it's a fraudulent filing.

21 On the merits of the rest, Your Honor, I'm going to  
22 take a quick stab at just saying this is the third go around.  
23 Two bad faith -- you know, two filings that dismissed before.  
24 Each one has a pattern, on the eve of a negative decision in  
25 the Court of Chancery twice before they were dismissed. We

1 think Your Honor could take judicial notice of all that, and  
2 reach the same conclusion right now.

3 And I think that is bolstered by as I mentioned, just  
4 look at the docket. Any credible debtor would have filed first  
5 day motions -- would have filed other motions, financing  
6 motions, would have given the Court some indication of what it  
7 is doing. I mean, we've been here a month. And the only thing  
8 the Debtors have filed are sanctions motions, trying to reclaim  
9 assets, but without dealing with insurance, and all these  
10 issues that you need to do on a credible basis.

11 So I think the lack of activity speaks for itself,  
12 combined that with the past history, I think, Your Honor, could  
13 make a decision here. But again, if Your Honor is more  
14 comfortable with an evidentiary hearing on those aspects, and  
15 would rather talk about scheduling, I think it needs to happen  
16 faster and quicker. And the Debtors are going to say August  
17 and we need evidence. No, we don't. This needs to happen now.  
18 And as I mentioned, the very first time we spoke.

19 Now, I think this is a critical point. There's an  
20 operating subsidiary that has no revenue and payroll is due.  
21 My clients covered the last payroll. And it is shocking that  
22 the Debtors have not reached out. The Debtors have not picked  
23 up the phone once to talk to secured creditors, my client in  
24 particular, about the assets are funding this estate.

25 There's payroll coming due. Everyone stops getting



1 paid. Everyone walks out the door. All the intellectual  
2 property is gone. And there's no TVs being made and no  
3 intellectual property to monetize. The fact that this debtor  
4 has done nothing to come before Your Honor and say this is what  
5 our plan is to pay for those people or ask my client, under  
6 what terms will you continue funding the operations is a huge  
7 red flag. And so we don't have till August. I don't think we  
8 have to the end of April, before payroll's not met.

9 THE COURT: Well, that was -- and I'll ask this to  
10 counsel. I wanted to know who's funding these people? I mean,  
11 there's no cash collateral. Who's funding anything? That was  
12 one of my questions.

13 MR. CAPONI: It's been my --

14 THE COURT: I wanted to know who was going to fund  
15 them? And how was that working?

16 MR. CAPONI: Your Honor, as to my clients to date, we  
17 have -- we funded the last payroll and left enough money there  
18 when they filed the bankruptcy to cover the payroll. So in the  
19 taxes, that's presently current. But I believe by the end of  
20 April, that situation --and now payroll's due and -- did we  
21 lose Your Honor?

22 THE COURT: No, no, I'm still here.

23 MR. CAPONI: Okay. I heard a beep.

24 THE COURT: Somebody else dropped off.

25 MR. CAPONI: So Your Honor, there's a lot of pie in

1 the sky from the Debtor about they have orders and whatnot, it  
2 takes cold hard cash to fund. There it is irresponsible at the  
3 highest order that the Debtor has not filed something with Your  
4 Honor. Has not reached out. Has not even initiated a  
5 discussion. That we think is telling and explains why this is  
6 a bad faith bankruptcy.

7 And we need to get clarity as to either they're going  
8 to fund and they've got proof of it. And we're not and my  
9 clients secure collateral is not going to dissipate at the end  
10 of the month. Or they got to come to this Court and admit they  
11 can't fund and then we can all deal with the repercussions of  
12 that. But to want to push a bad faith filing and a dismissal  
13 or trustee motion out until August, this thing is going to be  
14 off the cliff long before then.

15 My client filed the motion it did, because it was  
16 willing to work with an independent receiver who was going to  
17 preserve the assets to fund this entity. My client most likely  
18 is willing to do the same again. Is it willing to fund an  
19 entity so Mr. Rajan can run over there and download source code  
20 and move equipment? No. So I'll stop there.

21 THE COURT: Okay. So not that any of these companies  
22 are in bankruptcy, right?

23 MR. CAPONI: Correct.

24 THE COURT: I mean, who owns the -- I'm assuming  
25 there's a patent, there's trademarks, there's something with

1 respect to the technology. Who owns the technology?

2 MR. CAPONI: Well, Your Honor, that is what led to  
3 the first motion. Our view is it's owned at the different  
4 levels, you know, the patents are owned by whoever they were  
5 assigned. A lot of the intellectual property belongs to  
6 SeeCubic B.V. Stream is of the position that if it's owned by  
7 a subsidiary, no matter how far down the line, Stream has the  
8 right to go down to that subsidiary and pluck it out and bring  
9 it up to the Stream level.

10 THE COURT: I don't know about --

11 MR. CAPONI: And that's our -- that's our, like,  
12 look, Your Honor, it's a bonding equipment issue. As an  
13 example, if Mr. Rajan was saying, SeeCubic B.V., I'd like you  
14 to turn the equipment on and make some panels. There'll be a  
15 lot less heartburn on my end, and my clients' end. Instead  
16 he's saying I want you, SeeCubic B.V., to give Stream the  
17 asset. And he's been trying to do that with all the  
18 intellectual property. So my client can't fund an entity, have  
19 the lights turned on and the heat and air conditioning so that  
20 it's comfortable and Mr. Rajan and Stream -- I'll stop accusing  
21 Mr. Rajan -- so that Stream can upstream all of the assets out  
22 of that entity.

23 UNIDENTIFIED SPEAKER: Your Honor --

24 THE COURT: Wait a minute, wait a minute, wait a  
25 minute.

1 UNIDENTIFIED SPEAKER: Yes, Your Honor. Apologies.

2 THE COURT: Okay. Hold on a minute. I will say  
3 this. Bankruptcy is not a free for all where you get to do  
4 things because you're in bankruptcy. There are rules. There  
5 are just because you're in bankruptcy and you have an interest  
6 in something doesn't give you the right to go do anything more  
7 than what rights you had in connection with that entity.  
8 Whatever those rights are, they are. If they are -- if you  
9 don't have them before bankruptcy, you surely didn't get them  
10 because of the bankruptcy.

11 So whoever owns the intellectual property,  
12 whoever -- whatever they are, the ownership remains. So I'm  
13 not saying that who's right who's wrong, but there is to be no  
14 movement of anything with the claim that because I'm in  
15 bankruptcy, I get to do it. If it's an asset of the two  
16 debtors, it remains their asset. If it's an asset of their  
17 subsidiary or whoever owned it before, they continue to own it.  
18 So all of that has to be sort of sorted out. But what you're  
19 saying, counsel, is that the Delaware court has already decided  
20 on all of these assets?

21 MR. CAPONI: No, Your Honor. I mean, on an asset-by-  
22 asset basis, no. The Delaware court and -- when I say  
23 Delaware, the parties, it wasn't a -- it was a finding, but it  
24 was an admission by all the parties.

25 THE COURT: Right.

1 MR. CAPONI: All of the hard assets, all the assets  
2 of value, are at the operating subsidiary level, not even at  
3 the Technovative level. I mean, Technovative is just the choke  
4 point. It owns the stock of the company that then owns all the  
5 operating subsidiaries. So there are no assets really at the  
6 upper levels.

7 But you know, Your Honor, I would be remiss if I  
8 didn't mention, the Debtor never even filed an objection to the  
9 pending motion. So I know you're not -- I highly doubt your  
10 Court's going to grant it on that basis. But I will point out  
11 that there was a motion filed, a serious motion, the court set  
12 a deadline that passed and the Debtor never even responded. We  
13 have funding they haven't responded to. And we have --

14 THE COURT: I thought -- wait a minute, I just  
15 printed out -- I'm printing and I can't find them. I'm like,  
16 hold on. I thought I had -- wait a minute. I thought I had  
17 docket number -- oh, they filed an objection to request for  
18 expedited consideration of the motion to dismiss. And they  
19 filed that I guess I preliminary the the intent -- to you  
20 know -- then they said object. They don't think that should be  
21 different. I guess I took that as an objection and they  
22 requested a status conference instead.

23 MR. CAPONI: Your Honor had granted the motion to  
24 expedite and then set, I believe Wednesday night is the date to  
25 file any opposition to the motion. And that's what I was

1 referring to.

2 THE COURT: I filed --

3 MR. CAPONI: That date came and went.

4 THE COURT: Okay.

5 MR. ALEXANDER: Your Honor, this is counsel for the  
6 Debtor, Vincent Alexander. It was a request -- an objection to  
7 the request for the expedited relief. And that's our  
8 understanding in terms of what was being heard today was  
9 whether or not it should be heard on an expedited basis as  
10 opposed to --

11 THE COURT: I don't think -- let me look at the  
12 order. Because I don't recall -- I don't recall any  
13 discussions. I'm not going to say what happened. I think I  
14 may have said schedule them both for the same time. But I know  
15 I wasn't going to have an evidentiary hearing. That definitely  
16 wasn't going to happen. What did the order say? Did we issue  
17 an order and my courtroom deputy contacted you?

18 MR. ALEXANDER: Well, an order was entered, Your  
19 Honor, that set the -- today as the hearing date. Granted the  
20 motion to expedite, scheduled a hearing for today or a  
21 conference for today and set Wednesday as the deadline for any  
22 opposition to the substantive motion.

23 THE COURT: More -- okay, hold on. What docket entry  
24 is that? A joinder motion to relief. Okay. Hearing schedule.  
25 Motion to sanction. Motion to move -- hearing rescheduled.

1 Did we put an extra order in there? I'm just looking.

2 Counsel, what are you referring to when I set the  
3 deadline to file a response?

4 MR. ALEXANDER: Your Honor, I don't have access to  
5 the docket. I don't know if one of my colleagues on the phone  
6 does, and --

7 THE COURT: I'm seeing hearing reschedule as the  
8 start time. Oh, that was for today. Never mind.

9 MR.ZAHRALDDIN: Your Honor, this is Raphael  
10 Zahralddin from the Debtor. We spoke to I believe a  
11 gentleman's name was John. He was substituting for your deputy  
12 and --

13 (Court and clerk confer)

14 THE COURT: Yeah. Okay. 87. There we go. Thank  
15 you. Thank you, Michael. The Court hasn't reviewed the  
16 motion. A hearing on the motion will be held on the 14th day  
17 of April. Any responses must be filed on or before the 12th  
18 day of April. And it usually says 5 p.m., but that's missing.  
19 So clearly, I mean, I authorized it. And we -- I discussed it  
20 with Mr. Barbetta (phonetic) and told him what to put in here.

21 So clearly his response is he just didn't pick the  
22 date out. I gave him the date. So clearly my order granted  
23 the expedited. I would have considered your objection. And it  
24 wasn't because -- I think there were numerous phone calls. And  
25 again, counsel, I'm going to admonish you. Do not call my JA

1 or my courtroom deputies and inundate them with phone calls  
2 about asking for status conference and issuing amended orders.  
3 Don't do that. If I want amended order --

4 UNIDENTIFIED SPEAKER: Your Honor --

5 THE COURT: Don't do that. I mean --

6 UNIDENTIFIED SPEAKER: Understood, Your Honor.

7 THE COURT: I mean, I said that at the last hearing.  
8 Don't do it. You know, I don't like that they feel overwhelmed  
9 and bombarded with requests that they know I'm not going to  
10 give and I'm not going to do. If I want to schedule the  
11 status, I know how to schedule one. I never -- and I'm not  
12 sure where you guys are, you know, every court practices  
13 differently. But I never have an expedited hearing without --  
14 and particularly if it's going to be evidentiary -- without  
15 telling people ahead of time that I'm going to have it.

16 If you look at my rule, they specifically state, if  
17 anything more than 30 minutes, we have to specifically schedule  
18 as our trial, if it's going to be a trial more than 30 minutes,  
19 I always do an -- even on an expedited basis. If I need -- if  
20 something is critical, where for instance, you know, something  
21 doesn't happen in the next day, that there's going to be some  
22 detriment to the Debtor, I'll have an initial hearing and do  
23 some preliminary ruling, and then have a following hearing with  
24 a final order, which you can do in connection with any type of  
25 motion.



1 Now, obviously, with respect to a motion to dismiss,  
2 I can't do that because I either dismiss it or don't, or I hear  
3 enough to say, you know what? I mean, I sua sponte appointed a  
4 Chapter 11 trustee based on what I heard, but that was after  
5 evidentiary hearing. Or I issued an order saying why I  
6 shouldn't appoint one, based on what I heard at some hearing.  
7 But I always -- I want to give people their due process rights.

8 So unless you get an order saying we're having an  
9 evidentiary hearing, you can rest assured it's going to be what  
10 we're doing today is going over trying to figure out, you know,  
11 even if I have an evidentiary hearing, it's not going to be on  
12 the full blown because there's enough things that are clearly  
13 established, and it would only be on the disputed matter.

14 So with respect to the motion to dismiss, what I'm  
15 hearing from counsel is this can be disposed of, from a legal  
16 perspective without any evidence. Or when I say not any  
17 evidence, presumably, they've asked for the motion to dismiss  
18 and say, take judicial notice or attach a copy of the order and  
19 decisions from the Chancery Court, and you can -- based on  
20 this, this is the order. Nobody's disputing that that's the  
21 order. I'm interpreting what the order means and how it  
22 relates to authority to file and look at everybody's arguments.

23 I would do that before I even schedule an evidentiary  
24 hearing. Because if I find that as a matter of law it wasn't  
25 authorized, then that's it. If I find that a matter of law was

1 not precluded, then we go to an evidentiary hearing on the  
2 issues of bad faith, whether it's legitimate bankruptcy  
3 purpose, all those other things.

4           So don't do that. Don't call. And if I issue an  
5 order, you can rest assured that it says what it says and I  
6 know what it says. And it means what I said. Okay. Now, I  
7 forgot how we went off on that because I think I was -- there  
8 was a reference to no response filed. Okay. And I did print  
9 out the objection, which I saw as an objection only to the  
10 expedited request. But that can be addressed here, which is  
11 the Debtors don't want it to be done on an expedited basis, the  
12 relief sought, which we could address today.

13           MR. CAPONI: Well, Your Honor --

14           THE COURT: That's -- yes. Who's speaking now?

15           MR. CAPONI: Sorry. Steve Caponi again. What you  
16 just said, one, I will make sure everyone on my end does not  
17 pester your chambers. Two, I agree with what Your Honor just  
18 said wholeheartedly as a way to proceed. I think Your Honor  
19 should look at the Court of Chancery's order on whether there  
20 was an authority to file Technovative. It's a pure legal  
21 issue. Read the order. And Your Honor will either determine  
22 that the trustee has the sole authority or not.

23           And if Your Honor agrees, that solves that problem,  
24 and if not, go to an evidentiary hearing. And I think our time  
25 this afternoon will be best spent on discussing a schedule for

1 that evidentiary hearing if it's necessary or putting in place  
2 the hearing date, so Your Honor can, you know, have time to  
3 review the current pleading on the legal issue, the parties can  
4 do whatever discovery the Debtor wants.

5 But again, I would just say, there's no funding at  
6 the operational level. We're teetering on the cliff. So I  
7 would just plead for a earliest date as possible. And note  
8 that every day that goes by is to a detriment to my clients as  
9 a secured creditor. And I'll pause there to see if Your Honor  
10 has any questions.

11 THE COURT: No, I don't have any more questions or  
12 comments at this time.

13 Okay. Mister -- is it counsel for the Debtors. Is  
14 it Mr. Alexander?

15 MR. ALEXANDER: Yeah, that --

16 THE COURT: Okay. Go ahead, counsel.

17 MR. MAZZA: Just -- sorry to interrupt, Mr.  
18 Alexander. Just on the SeeCubic side, I know we joined in the  
19 motion, so if I can just briefly --

20 THE COURT: Oh, I'm sorry.

21 MR. MAZZA: No problem.

22 THE COURT: I apologize. Okay, go ahead.

23 MR. MAZZA: Mr. Mazza again, Your Honor, for  
24 SeeCubic. Just real quick, I agree with everything that Mr.  
25 Caponi laid out and that set forth in the papers and this can

1 be dealt with in an expeditious fashion relating to the ultra  
2 vires act issue. But one thing as it relates to this kind  
3 of -- the bankruptcy code and requirements on hearing things,  
4 we do think this is urgent to move forward as quickly as  
5 possible, obviously, in full deference to Your Honor's  
6 schedule, a lot of complicated facts here.

7 And the outside date under 1112(b)(3) is 45 days for  
8 this kind of motion to be adjudicated. So and I know, again,  
9 it's very complicated, but there are issues that can be  
10 addressed, I think, in a very discreet fashion to get to a  
11 quick ruling here, Your Honor. And given the issues that are  
12 real as to the preservation of value for the business that have  
13 been laid out in the papers and that Mr. Caponi has gone  
14 through, that is something that's going to be important to the  
15 secured creditors for there to be relief sooner rather than  
16 later.

17 And we do think given what has been filed so far in  
18 the case, or lack thereof, as far as moving forward, in a way  
19 that these cases would actually be a legitimate bankruptcy  
20 purpose, really, this is just a rehash of litigation, in our  
21 view, and is already been set forth in Mr. Rajan's affidavit  
22 that they're just seeking essentially, to convert the debt,  
23 which they were essentially going to lose on in the 225 action  
24 fully and finally. And only a minor issue was left to be  
25 decided on that, that this should not -- this should not

1 continue for much longer, given the real business exigencies  
2 here and what the bankruptcy code requires, as far as this sort  
3 of motion to be heard.

4 But in the meantime, as it relates to the earlier  
5 motions that were before Your Honor, some maintenance of a  
6 status quo that does not allow for any situation where the  
7 assets do not get preserved, is of paramount importance, while  
8 the Court considers the issues are in front of it. So we'd  
9 also emphasize that as being something that needs to be done in  
10 order to protect creditors interests in this case. Thank you,  
11 Your Honor.

12 THE COURT: Okay. Anybody else with respect to the  
13 motion -- in support of the motion to dismiss? Okay.  
14 Opposition to the motion to dismiss.

15 MR. ALEXANDER: Hi, Your Honor. Vincent Alexander on  
16 behalf of the Debtor. I'm not sure there is an order that  
17 you'd like me to address the issues raised, but in terms of it  
18 seems like the authority to file seems to be an issue that was  
19 prominently argued on the other side, and we believe that the  
20 case law supports that the Debtors did have the authority to  
21 file the bankruptcy when it was filed.

22 And the case law addresses, you know, orders when  
23 receivers are acquainted in terms of, you know, from state  
24 courts, and whether or not an order that restricts the filing  
25 of a bankruptcy is enforceable. We believe that the order that

1 was entered by the Chancery Court restricted the ability of  
2 anybody to file bankruptcy. And therefore, that order is void  
3 with respect to its treatment, and how in terms of the  
4 authority to file and the authority to file bankruptcy is not  
5 vested in the receiver. But there's nowhere in the order that  
6 says it is vested in the receiver.

7           What the order did is it strips the Debtor Stream  
8 from its ability to file bankruptcy for Technovative, and  
9 that's an unenforceable order. We believe the state lawyer is  
10 clear on that. And we can certainly brief that issue for Your  
11 Honor since that is considered a legal issue. But we can  
12 provide all the factual support for that argument, in terms of  
13 legal support for that argument, in terms of whether or not the  
14 Delaware order was enforceable given its impact and its  
15 restriction on a fundamental right of a corporate entity, which  
16 is the ability to file bankruptcy.

17           So we believe that that issue will be dispensed of,  
18 and in terms -- and will ultimately show that Stream had the  
19 authority to put Technovative into bankruptcy. And this is a  
20 lawful filing under the bankruptcy code and that the case  
21 should have and should proceed.

22           In terms of the other arguments about funding at the  
23 lower levels, Stream was prepared to fund the lower levels.  
24 And in order to do that, that's one of the reasons why Mr.  
25 Rajan went over to the Netherlands was to again, assess the

1 situation and the operations in the Netherlands. Because prior  
2 to the omnibus agreement and all the assets being transferred,  
3 over -- improperly transferred over to SeeCubic, the Debtors  
4 had no issues, you know, managing SeeCubic B.V. What  
5 ultimately happened after they lost the management rights,  
6 which ultimately came back is SeeCubic multiplied the workforce  
7 over there, ran up the expenses, and that's not -- and that was  
8 for SeeCubic's benefit, right.

9           So what the Debtor needs to do is reassess the  
10 situation over there. It's prepared to fund whatever the  
11 expenses -- the necessary expenses are over there. But when  
12 Mr. Rajan goes over there to look at the books and records and  
13 talks to people, and he's denied access to the information to  
14 which he's entitled, it's difficult to say you should be  
15 funding something, but then you're not getting the records from  
16 the entity in order to determine what the funding needs are,  
17 and that you're going to have control over the entities that  
18 you're funding.

19           So the Debtor is prepared to do that, but it needs to  
20 know exactly what the needs are. And it needs to stop being  
21 interfered with in terms of the management, so it can determine  
22 how much money it needs to put in to this bankruptcy case. And  
23 then appropriate motions will be filed with the Court. But at  
24 this point, we don't know what the numbers are.

25           We've heard you know, what a number may be, but we

1 don't have the backup for that number. We don't know what all  
2 the people do that are there. We don't know whether they're  
3 necessary to stay there in terms of the operations. And that's  
4 all the information that the Debtor needs in order to determine  
5 what the funding sources are in the Netherlands. But the  
6 Debtor is prepared to fund the Netherlands in terms of the  
7 operations.

8 And it's also the Debtors understanding that we  
9 believe based on discussions with the receiver, that there was  
10 a delinquency in funding, possibly in excess of a million  
11 dollars by the secured creditors prior to -- and when I say the  
12 Hawk parties, you know, prior to the bankruptcy filing. So we  
13 don't believe under their --

14 THE COURT: What about -- wait a minute. What did  
15 the receiver tell you when he set the funding?

16 MR. ALEXANDER: That they were -- that the Hawk  
17 parties were delinquent on their funding under a promissory  
18 note.

19 THE COURT: What promissory note?

20 MR. ALEXANDER: That they -- when they agreed to fund  
21 in the receivership to SeeCubic B.V., there was a promissory  
22 note. That's what we talked about earlier, Your Honor, at the  
23 post-receivership funding that there was deficiencies in terms  
24 of the amounts that were supposed to be funded.

25 THE COURT: So there was a promissory note issued by



1 SeeCubic B.V. --

2 MR. CAPONI: Your Honor, I'd have to see. I think it  
3 was with the recent I have to check.

4 MR. ALEXANDER: That's what everybody was talking  
5 about earlier in terms of getting the actual documents. I  
6 don't know if --

7 THE COURT: Counsel, can you hold one second, please?

8 MR. ALEXANDER: Sure, Your Honor.

9 THE COURT: Counsel, can you hold one second, please?

10 MR. ALEXANDER: Yes, Your Honor.

11 MR. CAPONI: Yes, Your Honor.

12 THE COURT: I'm sorry, counsel. So hold on one  
13 second. So page 20 of the motion to dismiss talks about the  
14 funding? Counsel?

15 MR. CAPONI: Sorry, Your Honor. What was that  
16 question, Your Honor? I didn't --

17 THE COURT: I think page 20 of your motion to dismiss  
18 talks about the funding.

19 MR. CAPONI: I'm turning there right now. Yes, Your  
20 Honor. So just to briefly -- my client -- the promissory  
21 there was funding from SeeCubic Inc., to SeeCubic B.V. via the  
22 receiver. The funding to cover payroll, and we covered every  
23 single payroll and covered all the taxes was, I think, a little  
24 over \$3 million. And so the notion that it was a line of  
25 credit, basically.

1           The receiver was able to draw down when needed and  
2 the receiver -- contrary to what was just represented, the  
3 receiver kept all the parties including Stream apprised of --  
4 there was a budget that was put together in connection with  
5 management of SeeCubic B.V. The receiver did this with  
6 SeeCubic B.V. It has nothing to do with SeeCubic, Inc. or Mr.  
7 Stastney or anything like that. Everyone had that budget, and  
8 the receiver kept everybody updated. So Stream for many months  
9 prior to the bankruptcy was well aware of the burn rate at the  
10 B.V. level.

11           And you know, I can understand wanting to have more  
12 information to know what your obligations are going to be going  
13 forward. But when you take ownership of something like they  
14 have by filing this bankruptcy, you have an obligation to come  
15 up with the funding. Stream has \$3,000, allegedly in the bank  
16 account. And the cash burn rate at SeeCubic B.V. is -- was  
17 750,000 pounds, a little over a million dollars a month.

18           MR. ALEXANDER: Your Honor, Vincent Alexander on  
19 behalf of the Debtor. But that's the whole point is we should  
20 have control of it as the Debtors. We should have access to  
21 all of that information as the Debtors of the control. And  
22 once we get that, we can determine what funding is appropriate  
23 and what needs are there. So that's exactly what --

24           THE COURT: But counsel --

25           MR. ALEXANDER: -- the Debtor is trying to do. We're

1 trying to get --

2 THE COURT: But in the meantime -- counsel, in the  
3 meantime, who's funding this? You keep saying we need to get  
4 information. We need to do this. You have an idea of how much  
5 is this costing. You think it's going to be less than a  
6 million dollars a month?

7 MR. ALEXANDER: Yes, Your Honor, we do.

8 THE COURT: What was it before?

9 MR. ALEXANDER: It needs to be litigated.

10 THE COURT: Well, how much do you think it was?

11 MR. ALEXANDER: Well, I can tell you --

12 THE COURT: Or how much do you think it's going to  
13 be?

14 MR. ALEXANDER: I can tell you, Your Honor, before  
15 the SeeCubic Inc. took over, once they took over, the cost  
16 tripled.

17 THE COURT: Okay.

18 MR. ALEXANDER: So when the Debtors were running it,  
19 the costs were significantly less in terms of operating --

20 THE COURT: What's significant -- what is  
21 significantly less?

22 MR. ALEXANDER: I believe from a payroll and taxes  
23 standpoint, it was 150,000 to \$200,000 a month.

24 THE COURT: And does the Debtor have that?

25 MR. ALEXANDER: The --

1 THE COURT: I mean, even assuming --

2 MR. ALEXANDER: Yes. The Debtor has the money to  
3 fund that.

4 THE COURT: Okay. So --

5 MR. MAZZA: So with all due respect, Your Honor --

6 THE COURT: Counsel. Counsel, you don't  
7 get -- didn't I say don't interrupt. You get to ask the  
8 question, but not now.

9 MR. MAZZA: Yes, sir. Yes, ma'am.

10 THE COURT: That's not --

11 MR. MAZZA: I agree. Sorry.

12 THE COURT: All right. Okay. So the Debtor believes  
13 that the Debtor can fund 150 and 250 a month. Okay.

14 MR. ALEXANDER: At least that, Your Honor. That's  
15 what they were funding before. But if they go in there and  
16 look, and it's the actual costs are higher, then we'll actually  
17 do that. But they need to know what cost --

18 THE COURT: They need to know -- well, that's all  
19 fine and well. But what happens if this play does get -- I  
20 mean, we're all -- you guys are all fighting in here. What  
21 happens if payroll is not met? And when is payroll going to be  
22 due?

23 MR. ALEXANDER: I believe payroll is due the end of  
24 this month, and it's already covered some of this month.

25 THE COURT: And after that?

1 MR. ALEXANDER: A payment needs to be made. And if a  
2 payment is not made, then presumably some employees will not  
3 come to work.

4 THE COURT: So? Do you expect they're going to work  
5 for free? How many --

6 MR. ALEXANDER: Well, I mean, if they have an  
7 understanding --

8 THE COURT: -- or how often --

9 MR. ALEXANDER: If they understanding of how they're  
10 going to get paid, I believe --

11 THE COURT: Yes. But they don't know -- you just  
12 said you don't know who you want to keep. You believe some  
13 people are unnecessary. How do they know about -- why is my  
14 understanding I'm going to get paid if I might be the one of  
15 the ones you decide you don't need. So I don't know how that's  
16 going to work. But how often --

17 MR. ALEXANDER: Well, they'll still get paid. I  
18 mean, I believe that they will still need to get paid pursuant  
19 to the requirements of paying employees.

20 THE COURT: Well, where is Stream getting the money?  
21 You don't have any cash, and you don't -- and you're not  
22 selling. Where's the cash coming from?

23 MR. ALEXANDER: The cash will come from VSI. And  
24 we'll have a -- we should have a --

25 THE COURT: Who?

1 MR. ALEXANDER: The entity called VSI.

2 THE COURT: B? V or B?

3 MR. ALEXANDER: V as in Victor.

4 THE COURT: Um-hum.

5 MR. ALEXANDER: S as in Stream and I as in Igloo.

6 THE COURT: And is that the company that's owned by  
7 Mr. Rajan?

8 MR. ALEXANDER: That is a company that is  
9 predominantly owned -- that Mr. Rajan has an investment in as  
10 well. But there are other owners of the entity.

11 THE COURT: And is this the same entity that has  
12 these contract with the Debtor and whoever else?

13 MR. ALEXANDER: It's a distributor. It has a  
14 distributor agreement with end users. So they are an  
15 intermediary between the Debtor and end users of the product.

16 THE COURT: So they have a distribution agreement  
17 with the end users or with the Debtor?

18 MR. ALEXANDER: With the Debtor.

19 THE COURT: And when was that entered into? Hello?

20 MR. ALEXANDER: I don't -- hello. I don't know  
21 the -- I'd have to check the date of that, Your Honor.

22 THE COURT: And why does the Debtor need  
23 distributors? Why can't the Debtor just sell the --

24 MR. ALEXANDER: Well, the Debtor needs -- I believe  
25 the understanding of the relationship is that VSI provides

1 additional resources that the Debtor doesn't have in order  
2 to --

3 THE COURT: What additional resources?

4 MR. ALEXANDER: To facilitate with the end user.

5 THE COURT: And what are those?

6 MR. ALEXANDER: I believe some of it has to do with  
7 electronic capabilities in terms of what's needed. The chips  
8 that go into the products, they're semiconductor related issue  
9 as well. And also VSI has relationships with certain customers  
10 that Stream did not have relationships with and then there's  
11 also relating to some expertise with lens films. There's  
12 hologram technology that VSI has as well. And so all of that  
13 is used in connection with the process.

14 THE COURT: How does that make them a distributor as  
15 opposed to just a simple supplier? All right.

16 MR. ALEXANDER: You asked me --

17 THE COURT: And so -- um-hum.

18 MR. ALEXANDER: No, and you asked where the money  
19 would come from. And that's where the money has come from.  
20 And it's available and we'll have the appropriate documentation  
21 on file when we know how much money we actually need to do it.  
22 But it looks like we might just have to put a dollar amount on  
23 in terms of what may be needed right now, as opposed to the  
24 full amount in terms to address the issues.

25 THE COURT: And so who's running SeeCubic B.V. right

1 now?

2 MR. ALEXANDER: When you say running, Your Honor, do  
3 you mean like on those grounds, like --

4 THE COURT: I mean, who's in charge of the day-to-day  
5 operations?

6 MR. ALEXANDER: Well, Mr. Rajan pursuant to the  
7 corporate records filed there, is the CEO. There is an  
8 individual and he's listed as the CEO in the corporate  
9 documents filed with the government. In terms of on the  
10 ground, like actually, in the office there, I believe an  
11 individual Patrick Thune, who we brought up earlier, has been  
12 instructing some employees. But he has not been listening to  
13 Mr. Rajan, who is the CEO.

14 THE COURT: Okay. Well, who was running this before  
15 bankruptcy?

16 MR. ALEXANDER: The receiver was giving the  
17 instructions.

18 THE COURT: To who? I'm sure he wasn't down there  
19 doing it himself.

20 MR. ALEXANDER: No. He was -- I believe he was  
21 coordinating with Mr. Thune.

22 THE COURT: With Mr. who?

23 MR. ALEXANDER: Mr. Thune. Patrick Thune.

24 THE COURT: Okay. So --

25 MR. ALEXANDER: And so our view is once the receiver



1 was displaced by the bankruptcy filing, aside from the fact  
2 that the Debtors didn't step back in and Mr. Rajan was the CEO  
3 of --

4 THE COURT: And who -- well, who was the CEO before  
5 the receiver was appointed?

6 MR. ALEXANDER: Mr. Rajan.

7 MR. MAZZA: Your Honor, we disagree with that.  
8 That's part of the dispute that we talked at length about  
9 earlier.

10 UNIDENTIFIED SPEAKER: Mister -- I won't interrupt,  
11 Your Honor. I'll wait.

12 MR. ALEXANDER: So Mr. Rajan was the CEO prior to the  
13 receivership being appointed -- I'm sorry, the receiver being  
14 appointed, not the receivership. The receiver being appointed.  
15 And so we attempted to then discuss and work on operating in  
16 the Netherlands, and that's when we were hit with the  
17 resistance in terms of Mr. Thune indicating that he was taking  
18 direction from Mr. Stastney, but the receiver --

19 THE CLERK: The Judge got cut off. Sorry.

20 MR. ALEXANDER: Okay. Yeah. No problem. Thank you  
21 for letting me know.

22 THE CLERK: So that was the last thing we heard, if  
23 you want to backtrack --

24 UNIDENTIFIED SPEAKER: Your bankruptcy for now. But  
25 Matthew filed it when the receiver --

1 THE CLERK: Someone is speaking with --

2 THE COURT: Counsel, I'm back. I guess I went for a  
3 record of three today.

4 MR. ALEXANDER: I --

5 THE COURT: And now, when I came back it said I had  
6 originally 35 participants, now I'm down to four.

7 MR. ALEXANDER: The lucky four. On a Friday  
8 afternoon.

9 MR. CAPONI: It's a Friday afternoon.

10 MR. ALEXANDER: Yep, there you go.

11 THE COURT: All right. So let's try to get -- so my  
12 question to Mr. Alexander was, who was the CEO before the  
13 receiver was appointed?

14 MR. ALEXANDER: It's the Debtor's position based on  
15 corporate resolutions that Mr. Rajan --

16 THE COURT: Counsel. Counsel. I did not ask you  
17 what the Debtor -- at the time the receiver was appointed who  
18 was the CEO?

19 MR. ALEXANDER: Mathu Rajan.

20 THE COURT: -- at the time the -- Mr. Rajan --

21 MR. ALEXANDER: Mathu Rajan.

22 THE COURT: -- was the CEO?

23 MR. ALEXANDER: Mathu Rajan.

24 THE COURT: So that's a different -- is that somebody  
25 different than --

1 MR. ALEXANDER: No. Mr. -- I called him Mr. Rajan  
2 before, but his name is Mathu Rajan.

3 THE COURT: So at the time the receiver was  
4 appointed, Mr. Mathu Rajan was the CEO?

5 MR. ALEXANDER: That is correct.

6 THE COURT: Okay. And he continued to be the CEO  
7 after the receiver was appointed?

8 MR. ALEXANDER: Well, no --

9 THE COURT: He was dismissed?

10 MR. ALEXANDER: Yes. He continued to be because it  
11 was a status quo. So the answer's yes.

12 THE COURT: Okay.

13 MR. MAZZA: Sorry to interrupt, Your Honor. Mr.  
14 Mazza again. That's part of the dispute in the Netherlands.

15 THE COURT: Okay.

16 MR. ALEXANDER: But as the upstream equity holder,  
17 Technovative gets to appoint all the downstream officers,  
18 directors. So that's how it works when they get to appoint the  
19 downstream ones.

20 MR. MAZZA: Right, but you have to comply with such  
21 law in order to put people downstream --

22 MR. ALEXANDER: Understood.

23 THE COURT: Well, I don't -- listen. I don't know  
24 what you have to do, because that may override anything. I  
25 don't know. I don't know what the point -- because when you

1 sign an agreement that says we can do all of this, that may  
2 override anything else you do. I don't know. No clue.

3 MR. CAPONI: Your Honor.

4 THE COURT: Yes?

5 MR. CAPONI: Steve Caponi. And I think, you know,  
6 given the hour and the day of the week to try to bring some  
7 closure. I think what I heard debtors counsel agree that on  
8 the ultra vires filing issue, that's something Your Honor can  
9 address on the papers maybe with the parties filing some  
10 supplemental briefing on that. And I think that is a clear  
11 path with a rare instance of agreement.

12 On the balance of the motion and whether we have an  
13 evidentiary hearing or not, I think -- Your Honor, I think  
14 there's also agreement that there is tremendous uncertainty  
15 around whether there's going to be a funding of payroll, who  
16 would do it, and how they would do it. And even if debtor's  
17 counsel is correct, that, you know, the Debtor can get the  
18 money from VSI, you still then have a related party transaction  
19 within it -- with an insider with an entity controlled by Mr.  
20 Rajan. That needs to get vetted and why --

21 THE COURT: Well --

22 MR. CAPONI: That hasn't been filed with the Court by  
23 now so the parties can kick the tires on it. I don't -- that's  
24 not -- my point, Your Honor, is that's not something you file  
25 the day before payroll's due. Why is Mr. Rajan running

1 around --

2 THE COURT: Well, counsel --

3 MR. CAPONI: -- and not dealing with those important  
4 issues? That needs to get addressed.

5 THE COURT: Well, it doesn't matter whether it's  
6 inside or outside or whoever, you can't get funding without  
7 filing an appropriate motion on the 354(b). I don't care who  
8 they're funding with. And that's why I'm here. So I don't  
9 know how they plan on doing that. And the funding is till the  
10 end of the month, so somebody needs to do something.

11 I mean, at the end of the day, you know,  
12 360 -- 1112(b)(3) says I shall commence the hearing not later  
13 than 30 days after filing of the motion. I don't know this  
14 considered commencing the hearing and not later than 15 days  
15 after commencement of such hearing.

16 I mean, I don't know how that's going to work,  
17 because you could have a hearing that started today, and it  
18 takes me three -- a month to finish the trial. So I don't  
19 know. If the parties express any consent to the continuous for  
20 a specific period of time, or compelling circumstances prevent  
21 the Court from meeting the guidelines established via the  
22 paragraph. I'm sure there are cases that state what compelling  
23 circumstances are.

24 So the best I could do is say if everybody consents  
25 that we have a continued hearing to a specific time, that's

1 really going to tie my hands because I don't necessarily --  
2 that now means I have to put this issue of dismissal to the  
3 front of other things I'm working on to meet -- unless we do a  
4 specific date by which we would have a trial, and then that  
5 would give me X amount of time to rule on the legal issues.  
6 And if I -- yes?

7 MR. CALLAHAN: Your Honor, this is Kevin Callahan on  
8 behalf of the United States Trustee. I appreciate the time you  
9 offer for us today. And I appreciate counsel presenting their  
10 respective positions. The United States Trustee does not take  
11 a position at this time. However, I'm a little familiar with  
12 the Court's procedures with respect to evidentiary hearings. I  
13 appreciate counsel's requests that this be heard promptly. And  
14 of course, I'm aware of the Court's busy calendar.

15 Nevertheless, I don't think counsel may be aware of  
16 the Court's procedure on handling evidentiary hearings. And  
17 simply as a suggestion or an observation, it may be a good idea  
18 if the Court were to let parties aware of the evidentiary  
19 hearing protocol that the Court has instituted, if the hearing  
20 is going to be on Zoom. That would allow --

21 THE COURT: Well, they put -- well, this one -- well,  
22 Mr. Callahan, this one will likely not be. This is one that I  
23 likely would come into the court for.

24 MR. CALLAHAN: Oh, that's fine.

25 THE COURT: This is too complicated to try to do this

1 over Zoom.

2 MR. CALLAHAN: Well, saying that, Your Honor, I  
3 really appreciate that. And I think that might be the  
4 preference for most attorneys, probably most of the attorneys  
5 here. But certainly the Court's website offers suggestions on  
6 how to present a briefing schedule. And also a scheduling  
7 order, which may give the parties here the opportunity to fully  
8 vet their positions.

9 I noticed that there are many declarations and  
10 documents attached to the pleadings. As of right this moment,  
11 they're not in evidence. And of course, if they were to  
12 be -- if counsel for both sides, were able to agree on perhaps  
13 the list of the exhibits that could be admitted without  
14 opposition, that would be a start. And of course, those  
15 exhibits and testimony or other evidence that would be  
16 contested, at least to let all parties know what's going to be  
17 argued. I also agree, Your Honor, that what -- I'm sorry, I'd  
18 also add that next week is another hearing on a motion for  
19 relief. Possibly the Court might entertain --

20 THE COURT: Is --

21 MR. CALLAHAN: Possibly the Court may entertain  
22 consolidating the three issues that are before the Court  
23 presently into one consolidated hearing. I think that might be  
24 helpful not only to the Court, but to the parties to fully  
25 resolve these issues.

1 THE COURT: Counsel, I have not even looked at my  
2 schedule for next week, because my courtroom deputy is on  
3 vacation. She usually sends it to me on Friday. And maybe she  
4 did, and I just haven't seen it because it's Friday, and I  
5 haven't had a chance to look at my mail. And so let's see.  
6 Okay. I don't see any -- nope. I don't see anything yet.

7 So thank you, Mr. Callahan, for pointing out that  
8 there's another hearing in this matter next week. But what I  
9 would like to do is, if we could pick -- everybody consents to  
10 a trial date, or the parties confer. And I don't mean in  
11 August, because that is not happening. I'm talking May  
12 sometime. Because I don't want this case dragging out if it's  
13 something that is not properly before me. And so that needs to  
14 be done on an -- agree on an expedited basis.

15 Because if this motion had been filed, it was filed  
16 last week, we would have had our first hearing sometime in  
17 maybe the end of the month, beginning of May, would have  
18 scheduled a hearing sometime in June. We a little bit above  
19 that. So I want to try to get this done sometime in May. That  
20 will give me an opportunity to have the parties submit briefs.  
21 An opportunity for us to go over the legal issues.

22 Because I don't think there's a dispute that they're  
23 basing -- they meaning the parties -- the moving parties in the  
24 motion to dismiss, are relying on the judge or the judge's  
25 decision in the chancery court, or a judge's order rather



1 appointing the receiver and what that means on the Delaware law  
2 -- staying that order no matter what it said is improper  
3 because it strips the Debtors of their authority to file  
4 bankruptcy.

5 I've looked at the issue briefly, know what the cases  
6 say. But I don't know, the -- I mean, I know what, you know,  
7 what does that explicitly do? You have to explicitly say you  
8 have the sole authority to file. Nobody else can file. I  
9 don't know, you know, for cases that I have had some exclusive  
10 language. I don't know. I don't know what that means. So and  
11 I don't think there's any dispute that this -- that the issue  
12 of the authority is relying on that order and the appointment  
13 of the receiver unless somebody is telling me different.

14 So I don't think that anybody would argue that this  
15 is what I need to look at in deciding whether it was authorized  
16 or not. And that whether the receiver has a way -- I don't  
17 know. And whether or whether that order in of itself  
18 was -- I'm going to use the word void, because it didn't -- you  
19 couldn't take away the Debtor's rights to file. I don't know.  
20 No clue.

21 And so I would need a time frame to get the briefs  
22 and then schedule a trial, sometime thereafter -- two weeks  
23 thereafter gives me an opportunity to read the briefs and do  
24 some reading, do my own research, look at your cases, and  
25 hopefully be able to render a decision and say trial will

1 proceed or trial is canceled. I don't know.

2 So do the parties want to confer and try to set some  
3 deadline or that they would -- that would work for them? Or  
4 they want me to set some. I think it would make sense for the  
5 parties to try to look at their schedules and come up with some  
6 dates. And if you can't, I most certainly will. Which one do  
7 you want to do?

8 MR. CAPONI: Your Honor, this is Steve Caponi again,  
9 for Hawk. I think the -- so I appreciate the guidance you just  
10 gave. And I'm confident the parties can work out a schedule,  
11 if we know what the end date is. So if there was -- if there  
12 would be a way for Your Honor just to say, here's the date in  
13 May that we're going to have a hearing, I know I'm confident we  
14 can work backwards and get everything to you within two weeks  
15 prior to that.

16 THE COURT: Well, counsel, I don't -- my courtroom  
17 deputy is not in today. And she is the keeper of the calendar.  
18 And I --

19 MR. CAPONI: Can you reach out on Monday?

20 THE COURT: Yes, reach out Monday to Ms. Godfrey and  
21 pull -- let me just look initially at my calendar, because as I  
22 said, I would prefer to have this in person. This is too  
23 complicated to do over Zoom. Not complicated, but I think it's  
24 too many moving parts. May. That's Memorial Day. We'd like  
25 to have it before Memorial Day. Up to you guys.

1 MR. CAPONI: Yes, Your Honor.

2 THE COURT: Not the Friday before Memorial Day.

3 What's the Monday? The Monday is the 22nd. I just have to  
4 figure out -- counsel, just give me a minute. I have a  
5 standing appointment -- doctor's appointment every other Monday  
6 for medication. And I just have to figure out where I am in  
7 that schedule.

8 Let's see. I went on Monday. So I think the next  
9 one's the 24th. Why doesn't it say 24th on here? Wait a  
10 minute. Did I go on Monday? No, because it's on Wednesday.  
11 Went on the 12th. The next one should be the 26th. Yes.  
12 Okay, hold on. Let me calculate from there. The 24th. Okay,  
13 I'm good if we can do the 22nd of May, because that will give  
14 everybody enough time. Or the next one would be the 20 -- no,  
15 that's Memorial Day. It would have to be --

16 MR. CAPONI: How does the 22nd work, Your Honor?

17 THE COURT: Let me see the 22nd, if that's a -- I  
18 just my calculations. The 22nd is fine. That should work,  
19 because I think I'm --

20 MR. CAPONI: Is this for the -- this would be the  
21 final trial date, Your Honor. Is that what you --

22 THE COURT: That would be the final trial date  
23 on -- the problem as I see it is that we will be doing a  
24 consolidated trial evidentiary record on the motion for -- and  
25 that may take longer than a day. Their motion for violation of

1 the stay, the motion to dismiss. And I've heard Mr. Callahan  
2 say there's a motion for relief. But that might be pushing it.  
3 You may just have to wait on that one. And because I may just  
4 have to wait on that. I don't know whose motion it is. I  
5 think we may have to wait on that. So maybe we reserve the  
6 22nd the whole day. What's on the 23rd? And maybe the half of  
7 the 23rd? Hello? Counsel?

8 MR. CAPONI: Yes, Your Honor. That works for Hawk,  
9 Your Honor.

10 MR. ALEXANDER: I'm checking with my -- this is  
11 Vincent Alexander for the Debtors. I'm checking with my side  
12 regarding -- what was that date?

13 MR. MAZZA: It works for SeeCubic, Your Honor. Jim  
14 Mazza here.

15 THE COURT: Okay. So that would be all day on the  
16 22nd. And on the 23rd a half a day. I guess maybe we -- you  
17 think we should reserve 24th a half a day? Let's see what we  
18 got on the calendar. Okay. It's a pretrial conference. All  
19 right.

20 (Court and Deputy confer)

21 THE COURT: So we start at 12:30 on the 23rd and  
22 12:30 on the 24th, to the extent we need it. So that means  
23 that I would have to have briefs two weeks before the 22nd,  
24 which would mean briefs would be due on the 8th.

25 UNIDENTIFIED SPEAKER: Okay.

1 THE COURT: 5 p.m. on the 8th, briefs. Well, we  
2 cutting it close for me trying to get a response. that doesn't  
3 give me much time to try to get an answer in -- a decision, but  
4 I'm sure I'll start looking at it before that. Okay. Now, so  
5 with respect to the motion for the stay, I want everything to  
6 just wait.

7 I want the matters in the Netherlands, which is  
8 scheduled for next week to just hold on a minute, because I'm  
9 concerned that this is going to have some impact on what I'm  
10 doing. It's going to have some impact on whether the Debtor  
11 believes to have their rights here in this Court, and it  
12 belongs to them here. And I need to protect those rights with  
13 respect to their ability to control these things.

14 I will be honest. I ultimately will not decide that.  
15 I ultimately -- if that is an issue, I'm going to send you guys  
16 to the Netherlands to have them because they understand --  
17 unless I look at the original agreement and find that the  
18 original agreements with the parties where they say they have a  
19 underlying agreement where they can appoint it. And that that  
20 supersedes anything. I could make that finding. I don't know  
21 yet. I don't know, because you're argument was it doesn't  
22 matter what they agree, they have to abide by the statute, the  
23 state or the country they're in. I don't know whether I'll  
24 find that.

25 I could say well, that's superseded in this

1 agreement, gave them the authority notwithstanding anything. I  
2 don't know. Because I don't know what it said. So I don't  
3 want -- I want everything to just stay until we can get some  
4 feel for where we are on this thing. Mr. -- nobody's turning  
5 over anything. Because I'm not quite sure how, with respect  
6 to -- I'm only hearing the parties saying that they can work  
7 this out with respect to turning over the bonding equipment  
8 that -- you know, you got to have insurance. And I mean,  
9 that's a requirement.

10 And so I don't know, you know, if I can facilitate  
11 some sort of settlement and discussion on that, purely, or if  
12 you want me to refer you to one of my colleagues to try to come  
13 up with a settlement with respect to that bonding equipment.  
14 That's fine. Because I think one of the big issues I can see  
15 in this is in the Netherlands, was that there was some concern  
16 that Mr. Rajan was having the company turn over this bonding  
17 equipment, and he believed he was taking away their assets.

18 Well, I'm going to decide that. So I don't know what  
19 to tell them, except they need to hold on. Mr. Rajan, I don't  
20 want you doing anything. Nobody's to do anything, except  
21 somebody's got to figure out how to pay these people or you're  
22 not going to -- you're going to be fighting over nothing.  
23 Nobody is to transfer assets, nobody's to take technology.  
24 Nobody could take trade. Nothing. Everything stands still.

25 And if somebody believes that somebody is moving

1 something, file something. Because no. You can't come to  
2 bankruptcy and say I'm going to -- anybody. Even the people  
3 in -- you know, I don't know. I don't know if I have  
4 jurisdiction over people over whatever assets are over there.  
5 That asset we're talking about right now is in China. So I'm  
6 not uncomfortable, I don't feel -- I'm comfortable saying just  
7 everybody stop. Don't do anything until we can get at least to  
8 find out, one, is this a legitimate filing. Legitimate meaning  
9 authorized. I don't mean -- and also, who has what. What  
10 assets that -- you know, if the Debtor believes that they have  
11 the exclusive right to appoint somebody, and that's the asset  
12 that belongs to the estate, I don't want anybody saying  
13 anything about it. I get to say something first. So  
14 everything is stayed. Nobody is to touch anything. And you  
15 guys try to work on the issue with respect to the bonding  
16 equipment.

17 UNIDENTIFIED SPEAKER: Understood, Your Honor.

18 THE COURT: Okay.

19 MR. ALEXANDER: Your Honor, understood. Your Honor,  
20 one question.

21 THE COURT: Wait a minute. Somebody has a question.  
22 Hold on.

23 MR. ALEXANDER: To the extent -- this is Vincent  
24 Alexander, Your Honor. To the extent the parties can't come to  
25 an agreement on the bonding equipment, which I'm hopeful we

1 can, did you say that one of -- either you or you can refer  
2 that quickly to one of your colleagues to help facilitate that?

3 THE COURT: I'm volunteering them.

4 MR. ALEXANDER: Well, I hope we can come to a  
5 resolution quickly on that issue.

6 THE COURT: Right. I would encourage you to do so  
7 because I think that's the gist of all of the big problems in  
8 the Netherlands and problems here. You know, maybe you guys  
9 agree that, you know, that it gets put somewhere and everybody  
10 gets to use it. I don't know. I don't know what to tell you.  
11 But I get the issue. Okay.

12 MR. DEMARCO: If I may, this is Andrew DeMarco with  
13 Rembrandt.

14 THE COURT: Yes. I'm sorry. You didn't get to say  
15 anything. I'm sorry. Go ahead.

16 MR. DEMARCO: I appreciate that, Your Honor. Well, I  
17 won't keep everyone here much longer. We've covered a great  
18 deal of ground. But there were two things I simply wanted to  
19 address. In the upcoming hearing regarding the motion to  
20 dismiss, I just wanted to request that Rembrandt may have some  
21 time to present, you know, its arguments against that issue.  
22 And I just want to raise that.

23 I also just wanted to note to Your Honor's question  
24 you've been asked earlier about who owns the intellectual  
25 property, and I just wanted to raise for the Court and make



1 sure it was on the record. That's actually a matter of dispute  
2 there is an ongoing lawsuit in the district of Delaware on that  
3 matter.

4 It is Rembrandt's contention that Rembrandt owns the  
5 intellectual property that is at issue in the suit. So  
6 particularly the trade secrets, that are at issue in that case.  
7 So I just want to make sure that Your Honor was aware of that.  
8 In fact --

9 THE COURT: The --

10 MR. DEMARCO: I apologize, Your Honor. You had a  
11 question?

12 THE COURT: Who -- you said there was ongoing  
13 litigation. Between who and who?

14 MR. DEMARCO: Yes, Your Honor. That would be a  
15 Stream and Hawk. Stream, Hawk, and Technovative. However,  
16 with the automatic stay, that has been the stay.

17 THE COURT: Okay. So Stream, Technovative, and Hawk  
18 are the plaintiffs, defendants? What are they?

19 MR. DEMARCO: They are the defendants. Rembrandt is  
20 the plaintiff.

21 THE COURT: Okay. So Rembrandt is suing these  
22 parties saying that it owns the intellectual property and is  
23 suing Stream. I'm not sure how Hawk fits in there, but  
24 technically, which is the Debtors, right? The two debtors.

25 MR. DEMARCO: Sure. We can get into the full details

1 probably during that motion to dismiss, but it is in our -- in  
2 the objection documents that we provided. So we can provide  
3 the further detail there. But the short version, Your Honor,  
4 is Rembrandt provided a license to Stream for the underlying  
5 technology. And now, it is our understanding based on public  
6 statements that have been put forth by Stream and by Hawk, that  
7 they are seeking to take some of that technology claiming  
8 ownership of that technology that is rightfully Rembrandt.  
9 So --

10 THE COURT: Okay. So --

11 MR. DEMARCO: -- to Stream.

12 MR. ZAHRALDDIN: Your Honor, Raphael's arguing from  
13 the Debtor, excuse me for one second. Let me just give some  
14 clarity. I believe that when Technovative was sued by  
15 Rembrandt, the receiver was in charge of that. There is no and  
16 there never has been any indication that we are not going to  
17 follow through on our license or our license, or respect our  
18 license with Philips. So I just want to make sure that Your  
19 Honor understands that issue. And we haven't been able to  
20 discuss because that action has been stayed with the  
21 bankruptcy. We haven't been able to discuss anything with  
22 Rembrandt as to what's happening after the bankruptcy because  
23 we've been preoccupied with these matters. So I just wanted to  
24 put that

25 THE COURT: Okay. Well -- okay. Well, right. It's

1 property of the estate and who owns it. I get that. Mister --  
2 I'm sorry, counsel. I didn't write your name. You started and  
3 I started writing it down and I didn't later. What's your name  
4 again?

5 MR. DEMARCO: No worries, Your Honor. My name is  
6 Andrew DeMarco. It's D-E-M-A-R-C-O.

7 THE COURT: Okay. So Mr. DeMarco, are you in favor  
8 of dismissal or against dismissal?

9 MR. DEMARCO: We are against dismissal here, Your  
10 Honor.

11 THE COURT: All right. So then you need to  
12 file -- you can file something too if you want. You don't have  
13 to. If you want to say you're in favor and you believe it's  
14 valid, you're free to file and present your arguments in  
15 support. You don't have to, but if you do, it's due by May 8th  
16 at 5 p.m., and if we have a trial you are definitely -- because  
17 you have filed something in opposition, you definitely can  
18 present whatever evidence. You can question. You can argue  
19 whatever you want, to the extent we have a hearing because I  
20 don't know yet, on the 22nd, 23rd, and 24th. Okay?

21 MR. DEMARCO: Yes, Your Honor. I appreciate that  
22 greatly.

23 (Proceedings adjourned)  
24  
25

C E R T I F I C A T E

I hereby certify that the foregoing is a true and correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.

/s/  
John Buckley, CET-623  
Digital Court Proofreader